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Senate

FISCAL YEAR 2004 BUDGET—CONFERENCE REPORT

(continued)

Mr. GRASSLEY. Mr. President, I rise to address an aspect of the budget resolution that we are debating today. I am going to focus on one of the Finance Committee's tasks that is included in the resolution. I am referring to growth package and reconciliation instruction to the Finance Committee. I would first like to put all of this into context. After that, I will describe an agreement with Senators SNOWE and VOINOVICH.

When I was thinking about the budget, Former Senator Barry Goldwater's words came to mind. Among legislators, you will find purveyors of perfection and those who practice the art of compromise. Reflecting on Senator Goldwater's words, I came up with a new version of Senator Goldwater's famous statement. With a little bit of poetic license, here is the version that I think sums up where we are:

Let me remind you that extremism in tax policy at the expense of no budget resolution is a vice. Moderation in tax policy in pursuant of a budget resolution is a virtue. Fiscal conservatism is a virtue. No budget equals no spending ceilings and that equals a vice against taxpayers.

Our economy has not recovered as we had hoped. Too many factories are shut or running below capacity. Too many workers are looking for work and need jobs to provide for their families. Stock prices have remained well below the ''bubble'' prices of the late 1990's. Americans wonder when their 401(k) accounts will bounce back.

To me, there is a clearly demonstrated need for bold fiscal policy to give our economy a ''kick start.'' President Bush took the initiative and the responsibility. The President put forward a bold plan that focused on consumer demand and lagging investment. Let me be clear. I am with the President and supported his proposals in committee and on the floor.

Keep in mind, press reports indicated administration officials pursued ever larger resources for the growth package. Last fall, the figure seemed to be $150 billion. In early winter, the Wall Street Journal reported one day the figure had gone up to $300 billion. Finally, when the President announced his plan the figure had grown to almost $700 billion. In fact, Joint Tax scored the plan at $726 billion.

I supported the President's number at each step and support it today. Unfortunately, there is not now a majority of Senators in support of the President's figure. Based on countless conversions I have had that majority is not going to materialize over the next few weeks. As much as I wish it were no so, that is the political reality.

The reality is that the Republican caucus is split. Most of the Senate Republican caucus supports the President's number. My moderate friends, such as Senators SNOWE and VOINOVICH, think the President's number is too large. Our Democratic colleagues who want to be constructive legislators, such as Senators BAUCUS, BREAUX, BEN NELSON and others, share our Republican moderates' view. Unfortunately, there are many on the other side who appear to view this exercise solely from the political objective of destroying part of the President's agenda. They seem less concerned about addressing the needs of the people.

My moderate friends base their views on concerns about future deficits. Those are sincere concerns. Likewise, I do not like the prospect of deficits. My difference is that fiscal discipline needs to come from the spending side as well. I do want to differentiate these moderates who are deficit hawks from those that claim the title of deficit hawk and seem to be advancing political objectives.

I would ask a question of those hard line opponents of the President's growth package who claim to be deficit hawks. How often have they offered to restrain spending? Did they offer any fiscally responsible spending restraints during the budget debate? I think we know the answer on that one.

We all need to focus on getting spending under control. Unfortunately, the reality is that a majority of the Senate wants to focus only on the tax relief side. That is where we find ourselves. We only see restraint on the revenue side of the ledger.

There is a more fundamental issue at stake. Republicans have a responsibility to govern. Aside from 135 days in the 2001, Republicans have not had control over both the Congress and the administration for almost half a century. The American people gave us the authority to govern in the last election and we owe it to them to produce. Senators SNOWE and VOINOVICH understand this.

Senators FRIST and NICKLES also understand this responsibility. I want Iowans to know I understand it as well. The people are tired of the partisan games and want us to govern. That is one of the reasons why I have said, as the growth package emerged, I want a bipartisan product. Senators BAUCUS and BREAUX have told me they want to help me get a bipartisan growth package. They, along with other Democrats, made a down payment on this pledge with their support of the Senate budget resolution. I will work with them and like-minded Democrats in the bipartisan tradition of the finance Committee.

In this context, the governing comes down to a couple of pieces of the peoples' business. One, producing a budget and, two, advancing an economic growth package. We cannot go through the chaos of last year when, under Democratic control, we did not have a budget. Chairman NICKLES has made it his priority to restore the order that comes with the fiscal blueprint of a budget resolution.

A few moments ago, I discussed the importance of the second item, the

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

growth package. That is my job, hopefully with my friend and colleague, Senator BAUCUS, to get a bipartisan economic growth package out of the Finance Committee, out of the Senate, out of conference, and on its way to the President.

So, the reality is these two items, the budget and the growth package, will not happen unless a majority of the Senate support the effort. Last night, a majority of the Senate did not support the budget resolution that passed the House early this morning. In order to get the necessary support, we made an agreement with Senators SNOWE and VOINOVICH. Let me be clear, without this agreement, the budget resolution conference report would not pass the Senate today. There would be no budget and no growth package without our agreement. That is why the leadership supports my efforts.

The agreement is simple. It relates to the revenue number for the growth package. I agreed that I would not return from the conference on the growth package with a number greater than $350 billion in revenue reductions. This means that, at the end of the day, the tax cut side of the growth package will not exceed $350 billion over the period of the reconciliation instruction.

Now, some on the other side will characterize this agreement as a ''defeat for the President.'' Those who say it is a defeat for the President may reveal their objective. It appears that they view this important responsibility solely from a political angle. I would say the same thing about my Republican friends who use that same characterization.

This is not about the President. It is not about the House. It is not about the Senate. It is about doing our job. It is about doing the people's business. As a matter of fact, if you review where the growth package started, at about $150 billion, you could say the ball has been moved substantially. Why is that? Common sense will tell folks on both sides of the aisle are a lot more concerned about the economy now than they were when we started. The reality is that we have the resources to do a very good growth package.

We have the tools to cut taxes that burden workers. We have the tools to cut taxes that burden small business. We have the tools to make investment decisions more attractive. That is where my focus will be—on workers, small business, and investors. I hope that my colleagues will join me and focus on doing the people's business. They can start by supporting the budget resolution conference report.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, first, I compliment my friend and colleague, the chairman of the Finance Committee, for his leadership, for his courage, for his service on both the Finance Committee and on the Budget Committee. He full well realizes we need both a budget and a growth package, and he has helped us and enabled us to do that. I also thank my colleagues from Ohio and Maine as well.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, while I welcome what I have just heard the Senator from Iowa say, no one should be under any illusion that there will only be $350 billion in tax cuts provided for in the budget resolution. This budget resolution provides for $1.3 trillion of tax cuts. Focusing on the reconciled tax cuts is only half of the story. It is a very important part of the story because those are the provisions that have special protection. There is a whole other part of the tax cut package part of this budget resolution that gets little reported. We are still left with well over $1 trillion of tax cuts.

People keep asserting it is a growth package. This is the work of the people who determine the effect of various packages, the very people who are under contract to the White House, the people who are under contract at the Congressional Budget Office who have looked at the President's plan. This is what they say:

> Initially the plan would stimulate aggregate demand significantly by raising disposable income, boosting equity values and reducing the cost of capital. However, the tax cut also reduces national saving directly while offering little new, permanent incentive for either private saving or labor supply. Therefore, unless it is paid for with a reduction in Federal outlays, the plan will raise equilibrium real interest rates, ''crowd out'' private-sector investment, and eventually undermine potential GDP.

Not a growth package, it is a package that hurts economic growth. That is the hard reality.

The fundamental reason for it is revealed in the President's own budget that shows his long-term outlook with respect to budget deficits if his budget plans are adopted. This is from his budget document. It shows we never get out of deficit. It shows the deficits explode because the baby boom generation retires and the cost of his tax cut package explodes.

The result is a heavy load of deficit and debt that burdens this economy and prevents the kind of economic growth for which we had all hoped.

The Senator from Montana is seeking time. I yield 15 minutes to the Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, so often Members of Congress, the President of the United States, and members of the press refer to an event as ''historic.'' The vote we are about to take on the budget resolution is one of those events. If this resolution passes, then April 11, 2003 will be included in the history books as the day the Senate relinquished part of its Constitutional purpose and power.

On March 31, a little over a week ago, I attended the funeral service of the late Senator Daniel Patrick Moynihan. I had the privilege of serving in the Senate with Senator Moynihan. He was a visionary, a leader, a teacher, and a statesman. Senator Moynihan reminded us to pay attention to our history. And he protected the historical purpose of the institutions of our nation's government the executive branch, the judicial branch, and especially the legislative branch.

Article 1, Section 3 of the Constitution designates the Senate as our Nation's deliberative body. As such, Senators are the only elected officials in our Federal Government with the power to impeach, approve treaties, and have 6 year terms.

In Federalist paper No. 63, the Founders explained that 6 year terms were important because the Senate would serve ''as the cool and deliberate sense of the community.'' The Framers believed this was important to prevent the Federal Government from making hasty decisions about matters that are central to the future of our country.

Let me quote directly from Federalist 63:

> . . . so there are particular moments in public affairs when the people, stimulated by some irregular passion, or some illicit advantage, or misled by the artful misrepresentations of interested men, may call for measures which they themselves will afterwards be the most ready to lament and condemn.

In short, our Founding Fathers saw the Senate's obligation to deliberate the important issues of our time:

> Until reason, justice, and truth can regain their authority over the public mind.

I believe we are at such a critical juncture.

Several Senate rules facilitate the Founders intent. First, Senators generally are allowed to offer amendments to any bill brought before the Senate. This is not generally the case in the House of Representatives.

In order to limit debate and reduce amendments, either all 100 Senators must agree to the limitations or the promoters of the legislation must file a motion to close debate and get 60 votes for that motion. That means that a simple majority is simply not good enough. The magnitude of our decisions requires a larger number of the Members of this body—60—to agree that it is the right thing to do for our country.

These Constitutional protections are fundamental to ensuring that the Senate maintains the role envisioned by our Founding Fathers. We must be very cautious when diminishing these protections in any way.

The enactment of the Budget Act of 1974 is one of the very few instances when the Senate has cut back on these protections. This was done with another important goal in mind—reducing deficits.

Let me take a minute to touch on the budget and budget reconciliation protection process.

When Congress passed the Congressional Budget and Impoundment Control Act of 1974, the purpose of the legislation was to help Congress control its budget.

Among other things, the Budget Act allows Congress to enact a budget blueprint each year. That blueprint, contained in what we call a budget resolution, is considered under special rules and must be passed by April 15th of each year.

One of these rules is that, instead of requiring 60 votes for approval, the resolution requires only 51. After a limited amount of time for debate, the Senate moves to a final vote.

The Budget Act set up a streamlined process—reconciliation—to make it easier for the Senate to pass legislation pursuant to the directives of the budget resolution.

Those provisions such as cutting spending or increasing taxes, are critical to reducing deficits.

Thus we agreed to significantly diminish the right of Senators to debate and amend measures brought to the Senate floor when done as part of the budget resolution and reconciliation. We agreed to give up these rights for a very important goal—that of deficit reduction.

Things changed, though, in 1996. In 1996, the Senate parliamentarian ruled that the budget resolution's streamlined reconciliation protection could also be used to pass tax cuts, that is, provisions that increase deficits.

The budget resolution can now include instructions to the Finance Committee to report tax cuts that can be passed in subsequent legislation with only 51 votes in the Senate. That ruling turned the Budget Act on its head. Unfortunately, today's parliamentary maneuver goes even further; it turns Senate procedure on its head.

The instructions in this budget resolution regarding the tax cut establish new precedents that will expand the power of the House and the leadership of the Senate at the expense of Senators. The precedents will diminish the power of any individual Senator, the Senate's committees, and whichever party happens to be in the minority at any given time. This new budget resolution scheme runs counter to intention and rules governing Congress since Congress first convened in 1789.

The tax cut instructions direct the Finance Committee to pass a bill with a maximum of $550 billion in tax cuts.

However, if the Finance Committee passes a bill greater than $350 billion, then the bill will not be permitted to pass the Senate unless it garners 60 votes of support instead of 51. This is accomplished through a new point of order that will apply during Senate consideration of the Finance Committee bill.

So, for example, if the Finance Committee passes a tax cut bill costing $450 billion, any Senator could raise a point of order on the Senate floor. The point would be sustained by the chair, unless 60 Senators voted to waive the point of order.

The point of order, however, is not applicable in conference under this resolution. Accordingly, a conference report that comes back above $350 but no more than $550 would need only 51 votes. No known points of order would lie against it—a dramatic change from current Senate practice.

At this point, I might say the architect of all these provisions which were designed to maintain Senate procedure and to maintain control of the deficit in a meaningful way is now seated on the floor, Senator ROBERT BYRD from West Virginia. I pay great respect to the Senator from West Virginia, who I am sure right now is lamenting a lot of new procedures that this body is about to adopt.

Under the Byrd Rule, the Senate could not exceed the instructions to the Finance Committee unless there were 60 votes to waive the objection.

But there is a significant difference. The Byrd Rule applies to both Senate consideration of the tax bill and Senate consideration of the conference report. But there is a big twist. The new point of order will apply only to Senate floor consideration of the Finance Committee tax cut legislation. It won't touch the conference report.

Now, you may ask, why doesn't the Byrd Rule still apply to the conference report? I believe that the Chair would rule that it does apply. This was confirmed in a letter sent from the Parliamentarian to Senator DASCHLE on April 9, 2003, which stated in part:

> During Senate consideration, the conference report on this measure [the tax cut bill] would be subject to the level of the reconciliation instruction given to the Finance Committee. If that conference report exceeded the instruction to the Finance Committee, the Byrd Rule would be available to remove provisions from that report sufficient to bring the measure into compliance with the reconciliation instruction to the Finance Committee.

I ask unanimous consent that the entire letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
OFFICE OF THE SECRETARY,
Washington, DC, April 9, 2003.

Hon. THOMAS A. DASCHLE,
Democratic Leader,
U.S. Senate, Washington, DC.

DEAR SENATOR DASCHLE: I am writing to you in response to your question about the consideration in the Senate of a revenue reconciliation bill pursuant to H. Con. Res. 95, the budget resolution currently in conference, if the conferees on that budget resolution give different revenue reconciliation instructions to the Senate and the House.

The Senate during its consideration of a Senate measure would be bound by the reconciliation instruction given to the Finance Committee. As you know, the Senate must pass a House originated revenue measure, and therefore the Senate must consider a suitable House revenue measure as a vehicle to be passed and sent to conference. The Senate could consider as a reconciliation bill a House passed measure which complied with the higher reconciliation instruction given to the House Ways and Means Committee. During Senate consideration the conference report on this measure would be subject to the level of the reconciliation instruction given to the Senate Finance Committee. If that conference report exceeded the instruction to the Finance Committee, the Byrd Rule would be available to remove provisions from that report sufficient to bring the measure into compliance with the reconciliation instruction to the Finance Committee, subject to subsequent House action.

Sincerely yours,

ALAN FRUMIN,
Parliamentarian.

Mr. BAUCUS. That is what the Senate Parliamentarian wrote in a letter to Senator DASCHLE 2 days ago.

The operative question is, What is the instruction given to the Finance Committee? I suggest there are two possibilities: $550 billion and $350 billion. The case for the $550 billion is technical. Section 201(b) of the bill before us states:

> The Senate Finance Committee shall report a reconciliation bill not later than May 8, 2003, that consists of changes in laws within its jurisdiction sufficient to reduce revenues by not more than [$550 billion].

The case for $350 billion—that is what is the instruction given to the Finance Committee—is substantive. The instruction to the Senate Finance Committee is conditional. The very next section of the budget resolution, Section 202(a), provides:

> It shall not be in order for the Senate to consider a bill reported pursuant to section 201, or an amendment thereto, which would cause the total revenue reduction to exceed [$350 billion] . . .

Taken together, the instruction to the Senate Finance Committee regarding reconciliation is $350 billion. I believe if you were to ask 100 Senators what the size of the tax cut is going to be in the Finance Committee-reported bill, they will tell you, it will be $350 billion—not more. Everyone in this Senate, this body, knows that is what is going to be reported.

The budget resolution says it is not in order to consider a tax bill greater than $350 billion. If the Chair rules that the instruction to the Finance Committee is for $550 billion, then I believe that approval of this resolution would eviscerate a significant part of the Byrd rule.

The Senate will have created a mechanism to, at a minimum, eliminate the effect of the Byrd rule provision in consideration of conference reports.

Under this ruling, there would be no basis for stopping further erosion of the Byrd rule. The drafters could eliminate the use of the Byrd rule provision by setting a very high instruction number to the committee, and setting points of order at lower amounts at whatever steps along the way were necessary to command the votes sufficient to pass a bill.

For example, the budget resolution could instruct the Finance Committee to report a bill costing $1 trillion. The resolution could then set a point of order applicable to the Finance Committee bill at $200 billion, set a point of

order applicable to Senate floor consideration at $300 billion, and set a point of order applicable to the conference report at $400 billion. The Byrd rule would then be inapplicable provided the cost of the tax cut bill was not more than $1 trillion, an artifice. That is exactly what is going on here in this budget resolution.

That result is absurd, and I believe this interpretation renders portions of the Budget Act moot or ineffective. If these actions go forward, this ruling will come back to haunt the Senate. It may enhance the Senate's ability to pass bigger tax cuts. It may enhance the Senate's ability to pass larger spending increases. It may do both. But it will not help the Senate reduce the deficit, which was the purpose of the reconciliation provisions.

I urge every Member of this body to fully examine the effects this ruling will have on the Senate and on our Nation. It is irresponsible to go forward with this plan, and I cannot support the procedural scheme cooked up in this budget. I urge my colleagues to look at the long run, not the immediate short run, and vote against this resolution.

In addition to my earlier comments expressing my disappointment and serious concern regarding the procedures adopted with respect to this budget, I would like to also speak against certain funding provisions included in this budget conference report. I'm especially concerned by the insufficient level of highway funding and by Title III.

Highway funding is one of the most effective ways to create jobs and send needed assistance to the States—in my State of Montana and across the nation. It is unacceptable to cut transportation funding at this time when states are facing record deficits and unbalanced budgets. In addition to highway funding levels being set too low in the budget resolution, the reserve fund provisions won't allow us to increase the highway program unless we raise taxes.

In order to build on the success of TEA 21 and pass a TEA 21 reauthorization bill, we must ensure that our budget resolution can accommodate higher levels of spending for highways and transit. These higher levels of spending will enable the successor to TEA 21 to become law.

Increasing funds into the Highway Trust Fund is the sole responsibility of the Senate Finance Committee. Senator GRASSLEY and I have been working very hard to find ways to grow the highway and transits programs, without raising taxes.

I can't emphasize enough how the single principal feature of any new highway reauthorization bill has to be its increased funding for the program, something that will help Montana and help our country. The blueprint that the budget resolution sets for our fiscal year 2004 budget fails when it comes to transportation funding.

I am also troubled by provisions that were included in Title III of the budget resolution. Similar to the deceptive procedures that are being used to rush this budget to a final vote, Title III includes misleading findings in order to justify possible future cuts to programs that are essential for working Americans. Title III includes findings on waste, fraud, and abuse in Federal programs and instructions for the tax-writing committees to examine these programs for savings.

Many of the programs included in Title III involve aid to low income Americans. Included in this group are millions of veterans and members of our current armed forces. Title III includes findings addressing the earned income tax credit (EITC). EITC works to reduce the tax burden on low income Americans, while giving a powerful incentive to work. I am concerned by a section of Title III that would crack down on erroneous payments of the earned income tax credit, stating that the OMB has found that $8 billion a year is paid erroneously for EITC claimants.

I have no tolerance for people who commit fraud and steal benefits paid for with the tax dollars of hard working Americans. However, I believe the OMB findings are largely due to errors, not fraud. And I believe that the complexity of the tax credit and complex living situations are responsible for the high error rate. Publication 596, the instructions and forms for the EITC, are 54 pages long. The number of pages explaining the EITC is longer than those describing the alternative minimum tax. Many of the claims paid ''erroneously''—according to the study on 1999 tax returns—are not paid fraudulently. Often a payment made in ''error'' is simply made to a mother living in the same house as her grandmother—who should have claimed the credit—and is consequently marked as paid in ''error.''

Senator NICKLES argued earlier today that we have never addressed these issues before. With all due respect for my good friend from Oklahoma, we have worked in a very bipartisan way over the last several years to address the issue of EITC noncompliance. In 1997, we passed a provision allowing the IRS to access the Federal Case Registry to determine if a child is qualifying. This registry is still a work in progress. We also established kid-link, which as of today, only affects children aged four and up.

In 2001, Senator GRASSLEY and I worked together to include significant provisions in the bipartisan tax cut that were aimed at reducing error. These changes include the AGI tiebreaker provision and giving the IRS math error authority to prevent deadbeat dads from claiming the EITC.

It should be noted that almost none of these changes were in place when the study Senator NICKLES refers to was done on 1999 returns.

President Reagan hailed the expansion of the EITC in 1986 as ''the best anti-poverty, the best pro-family, the best job creation measure to come out of Congress.'' It has been estimated that nearly 4.8 million people, including 2.6 million children, are lifted out of poverty every year because of the earned income tax credit.

In 1999, then Presidential candidate, Governor Bush, told reporters ''I don't think they ought to balance their budget on the backs of the poor.'' Mr. President, I hope we take these words to heart when we consider this budget.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from North Dakota.

Mr. CONRAD. Mr. President, I salute the Senator from Montana, the ranking member of the Finance Committee, the former chairman of the Finance Committee, for, with great specificity, pointing out the extraordinary danger of what is being proposed here.

In order to accomplish a short-term goal, we are endangering the ability of this body to responsibly manage the budget of this Nation. I believe this is a dark day for the Senate. I believe we will live to regret the day this was adopted.

It is a sham. It will create enormous problems in the future. Whoever is in the minority—whoever is in the minority—is going to face a dramatic diminution of the power and the ability to influence outcomes.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I take issue with our colleagues. I regret the decision they made. But that is not the way this resolution reads. It may have been the way we were looking at having it a couple days ago, but because of some changes that were made, this resolution reconciles both committees to $550 billion, both Houses to $550 billion.

It also has additional language that says the Senate will be limited to $350 billion, both out of committee and on the floor. The chairman of the Finance Committee said he would not report, he would not sign a conference report that was greater than $350 billion. You can take the word of the chairman of the Finance Committee. If he says it is not going to be more than $350 billion, it is not going to be more than $350 billion.

But to say we are starting something different, if the resolution was drafted correctly and it said $550 billion for both Houses, it did have limitations on the Senate. We have the right to put limitations. We put instructions to various bodies, either the House and/or the Senate, and various committees. That is what a Senate resolution does.

I just want to make sure people understand both the commitment our colleague from Iowa made and also that the resolution—and it was not done haphazardly. It was not done with malice or trying to distort the budget process. We were trying to pass a budget in both the House and the Senate. That is what we are going to do. We are going to have a budget.

We did not have a budget last year. We are going to have a budget this

year. We are going to have a budget that will have caps on discretionary spending and points of order against entitlements. It will be able to keep people from offering entitlements on any little bill that comes down that costs billions of dollars and acting as if it did not cost anything. We are going to have budget enforcement. We are going to have fiscal discipline. We are going to have a reconciliation package that will be reported out of the Senate Finance Committee on the floor of the Senate, and I believe out of the conference report, at $350 billion.

I will also say, I heard my colleagues say: Well, there is really $1.2 trillion. Mr. President, $600 billion and some of that is for the last 3 years of the reconciliation period—the years 2011, 2012, and 2013. That will be to extend present law. If we do not extend present law, you are going to have people who are paying 10 percent, who will be paying 15 percent. You are going to have people who are paying 25 percent who will have to go back up to 28 percent. You will have an increase or reinstatement of the marriage penalty. You will have people who were receiving a $1,000 tax credit per child who will only get a $500 tax credit per child.

I just mention these. Everybody keeps talking about these fabulous tax cuts for the wealthy. The highest income tax bracket has been reduced a great big 1 percent. It has gone from 39.6 percent to 38.6 percent. Hopefully, eventually it will be at 35 percent. How high is 35 percent? I might remind my colleagues, in 1990, the maximum rate was 31 percent. So even after all of these enormous personal income tax cuts proposed by President Bush, the rate is going to be 35 percent, which is still about 13 percent—or maybe higher than that—well, the old rate was 31 percent. So you are still about 15 percent higher than it was under President Clinton.

I just mention, with all these rate reductions—I have been in the Senate not nearly as long as Senator BYRD, but when I came to the Senate, the maximum personal income tax rate was 70 percent. In my first 8 years in the Senate, it was reduced to 28 percent—a pretty significant reduction.

Incidentally, Federal revenues in that 10-year period of time, between 1980 and 1990, doubled. So even though we reduced personal income tax rates dramatically, total revenues to the Federal Government rose dramatically—doubled—in that timeframe. So it can happen.

We reduced capital gains rates in 1997 from 28 percent to 20 percent, and revenues rose, and rose dramatically, because we cut tax rates.

President Bush is now proposing additional tax cuts to stimulate the economy. The chairman of the Finance Committee said the reconciliation package would be $350 billion. Colleagues on the other side offered tax bills and spending bills—mostly spending—that was $140 billion. I guess that was OK but this is not OK.

We are looking at an economy that is $11 trillion per year. We are looking at total revenues to the Federal Government over this same period of time of $28 trillion. We are trying to move the economy by having a slight reduction of $350 billion. The House would say $550 billion. That is hard to do. Some of us think it should be more, but we also know we have to count votes. We also know we have to pass a budget. That is our objective, to pass a budget and to get the biggest growth package we can. That has been my objective for a long time. I think it would be very foolhardy to say: Well, we can only get half a growth package; therefore, we will not have a budget. I think that would be a mistake.

We need to have a budget. We need to have a growth package.

I just tell my colleagues as well that there are still opportunities to do additional tax cuts outside of reconciliation. I encourage that. I was very close to recommending we not have reconciliation and just do a tax cut, period, the old-fashioned way, without the expedited procedure, Senator BYRD, because I believe we can pass one. I think we should pass one. It would be amendable and debatable. We could do it, and we would help the economy. I hope we will, in addition to what we do on reconciliation. I don't think you can stimulate the economy as big as this economy is. I don't think you can do enough with $350 billion. I agree with our President. It may well be we will have to do some inside of reconciliation, and we will have to do some outside of reconciliation. Fine. I would imagine the House can pass a tax bill, and I hope and look forward to taking it up in the Senate. Yes, there will be unlimited debate and unlimited amendments. Fine. Let's take it up. Let's vote. Let's find out, do we really want to grow the economy.

I hope our colleague, the ranking member of the Finance Committee, will work with the chairman to make that happen.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I say to my colleague, he may get a budget resolution, but there is no fiscal discipline here. Let's not mislead anybody. This is a prescription for record budget deficits, for red ink as far as the eye can see, for the explosion of deficits and debt. This may be a budget resolution, but it is not a prescription for fiscal discipline.

People can make all the deals they want. We are going to vote on a budget resolution. This budget resolution authorizes $1.3 trillion in tax cuts. That is what is provided for here. And they can do this fandango dance that they instruct on one hand the Finance Committee to do $550 billion of tax cuts, then turn around and make a supermajority point of order against any actual product of that committee over $350 billion, and the chairman of the committee can come out and commit not to bring back from conference committee anything more than 350. I have respect for the chairman of the committee. When he gives his word, I believe it. I commend him for it. But let's not be under any illusion that that restricts what is happening to $350 billion of tax cuts. It does not.

What is in this budget we are going to vote on is $1.3 trillion of tax cuts when we already have record budget deficits, and it also increases spending by $1.1 trillion. Guess what? You are going to have deficits as far as the eye can see. And they are not small deficits; they are huge deficits. And they are going to mushroom when the baby boom generation retires.

Is the Senator from West Virginia seeking time?

Mr. BYRD. Yes.

Mr. CONRAD. How much time would the Senator like?

Mr. BYRD. Twenty minutes.

Mr. CONRAD. I am happy to yield 20 minutes to the Senator from West Virginia, ranking member of the Appropriations Committee, and also an extraordinarily valuable member of the Budget Committee.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the distinguished Senator from North Dakota, the former chairman of the Budget Committee in the Senate on which I serve. I thank him for the time. I may not use the 20 minutes. I will yield back to him whatever I do not use.

I also thank the distinguished Democratic whip for his courtesies and his characteristic accommodating mood.

With the final passage of the fiscal year 2004 budget resolution, I expect that many in Congress will congratulate themselves for a job well done. I expect a whole flurry of press releases to emanate from Washington about who is or is not a friend of the taxpayer, and who is or is not a friend of the President.

Those characterizations underscore just how ridiculous this budget debate has become.

The economy is floundering. Economists are warning that it could begin to contract in the months ahead, raising the risk of a disastrous double-dip recession. The airline, manufacturing, and tourism sectors are already in outright recession.

More than 2 million jobs have been lost nationwide since January 2001, and 3.5 million workers are drawing unemployment benefits.

During that same time frame, the Dow Jones Industrial Average—a symbol of the retirement holdings of millions of Americans—has declined by a disastrous 23 percent.

Budget deficit projections are soaring, with some private-sector projections for the current fiscal year topping $400 billion. Yes, $400 billion. That is $400 for every minute since Jesus Christ was born.

The trade deficit remains disturbingly high, with the economy losing tens of billions of dollars every month in growth to other nations. We often hear the other distinguished Senator from North Dakota speaking on this subject, Mr. DORGAN, about the trade deficit. His pleas fall on deaf ears.

The dreaded twin deficits plaguing the U.S. economy have raised alarms around the globe, with the world's economic leaders pleading with this Administration to reverse its policies and trim its deficits.

Now the Senate is on the verge of passing a budget to authorize over $1 trillion in new tax cuts while we are in a war. It would be funny if it were not so serious; over $1 trillion in new tax cuts. How long would it take you to count to a trillion dollars at the rate of $1 per second—1, 2, 3, 4, 5, at the rate of $1 per second—how long would it take you to count to $1 trillion? Anybody want to guess? Thirty-two thousand years. So here we are on the verge of passing this budget to authorize over $1 trillion in new tax cuts before the American people can even begin to come to grips with just how badly our fiscal position has deteriorated. This budget deliberately obscures from the American public the mounting levels of deficits and debt we are accumulating. Have we no shame? This budget resolution is a sham. The spending and deficit numbers it contains are phony. I doubt there is a Member of this body who believes the assumptions that are included in this budget.

We haven't even figured out yet how we are going to pay for the war. Ask Secretary Rumsfeld what the cost of the war is going to be? He will say that is not knowable; these things are not knowable. Well, we haven't even figured out yet how we are going to pay for the war, a war that began 3 weeks ago that this administration has been eyeing since it took office 2 years ago.

The budget is in deficit. Under this so-called balanced plan, the national debt will almost double in just 10 years, reaching $12 trillion by 2013. That is trillion dollars, trillion with a capital ''T.'' We are borrowing hundreds of billions of dollars and exhausting the Social Security surpluses just to finance the current operations of Government.

I pity those three little great-granddaughters I have, and other Senators should weep alike. If you don't have granddaughters or great-granddaughters now, if the Lord blesses you, you will have them.

The Congress will soon pass a roughly $80 billion supplemental, but those funds are just a downpayment on the war—just a downpayment, a small one at that—on the war, and post-war reconstruction there is likely to cost hundreds of billions of dollars.

This budget resolution includes only $75 billion for the war in Iraq and pretends that not budgeting for this effort will not have long-term consequences for our troops and humanitarian relief efforts.

The economy is faltering, the budget is deteriorating, and all this administration says is tax cuts will save us. Well, I have been in Congress for over 50 years. I have been in politics almost 60 years. The easiest votes that I ever had to cast were votes to cut taxes. The administration says tax cuts will save us. They append their hopes to ideological rhetoric. Meanwhile, the poor, beleaguered, hard-pressed, downtrodden American taxpayer gets stuck with bigger and bigger debt and more and more interest costs.

The Congress has struggled for weeks about whether to endorse the President's tax cut proposal. For a while, there appeared to be a glimmer of hope on the horizon. A number of Senators, despite immense pressures from the White House, despite immense pressures from their party leadership, voted their conscience. Tax cuts were trimmed so funds could be set aside to pay for the war, pay for the deficit reduction, and pay for the other priority needs of the Nation.

What's more, the Senate sought to create parity between emergency designations for homeland security and defense spending. That was my amendment.

This budget resolution effectively erases those decisions—wipes them out—and replaces them with a lot of nonsense that has already been rejected by this Senate.

We haven't the funds to pay for a war, and the administration knows that. They didn't even budget one thin dime in the budget for the war. We haven't the funds to pay for a war, let alone a massive new tax cut. Our only option is to go deeper and deeper into debt. How deep we are going to go is anybody's guess, but one thing is sure: Mr. President, your children, my children, my grandchildren, my great grandchildren, your grandchildren, your great grandchildren, and theirs—those people looking at the Senate Chamber today through those electronic eyes—your grandchildren, their children, and their children's children will still be paying the tab many years hence.

We hear the cry for stimulus through tax cuts. I say bunk. Economic stimulus is a code word for covering your political backside—if you know what the code word ''backside'' is for. Economic stimulus is the code word for covering your political backside. The economy of this Nation has been mismanaged by those who put protecting their political base ahead of enacting sound economic policy. If all we had to do was to pass massive tax cuts every time the economy began to stumble, if it were just that simple, we would have done away with recessions in the last century.

President Ronald Reagan had the common sense to recognize the consequences of long-term deficits and the courage to repeal portions of his own 1981 tax cut. President George Herbert Walker Bush likewise recognized the dangers of long-term deficits and signed legislation to increase taxes in 1990. But this administration refuses to recognize how badly its economic policies are failing. This administration can only stubbornly argue for more of the same—more tax cuts.

It was unwise, unfair tax cuts that helped to push the budget into deficit in the first place. The much touted stimulus to the economy did not happen. The only thing these tax cuts will stimulate is campaign contributions from fat cats.

The budget process is supposed to provide this Congress with a roadmap that will guide us toward reasonable spending and tax policy. But under this budget resolution, the war and postwar reconstruction will not be paid for, deficits and debts will continue to pile up, and the American taxpayer won't even know that the Nation has veered off the cliff, off the road, until the economy is on its back—spinning its wheels deep inside the deficit ditch.

In the New York Times on Wednesday, Sam Nunn, Warren Rudman, Bob Kerrey, Peter Peterson, Robert Rubin, Paul Volcker—Republicans and Democrats, moderates and conservatives, former Federal Reserve and Treasury officials, and former Members of the Senate—all joined together to warn us not to do exactly what we are about to do. They urged us not to rely on unrealistic budget assumptions, not to ignore the deteriorating long-term fiscal outlook, and not to enact these fiscally irresponsible proposals.

This budget makes promises to the American people that we know we cannot keep. This budget piles years of interest and debt payments on the public and then tries to obscure them with the promise of economic stimulus. I oppose that kind of manipulation. I oppose not being forthright with the American people. I oppose this budget resolution.

I yield back to the distinguished manager of the bill on this side of the aisle whatever time I did not use.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I thank the very distinguished senior Senator from West Virginia. As I indicated, he is a very valuable member of the Budget Committee and the ranking member of the Appropriations Committee. He has said very clearly what this budget before us represents: a plunge off the cliff into unending deficits and debt—at the worst possible time.

Here we are at war, the cost of which we cannot know, right on the brink of the retirement of the baby boom generation. We are already in record budget deficits. The Senator said the budget deficit, as some private forecasters indicate, will be over $400 billion this year. That doesn't count the $160 billion they are going to take out of the Social Security trust fund.

On a true operating basis, we are going to have a deficit this year of more than $600 billion. Is anybody listening? And it doesn't end this year.

We don't see the deficit on an operating basis, if this budget is adopted, ever getting below $300 billion to $400 billion a year. This is the sweet spot—the time the trust funds are throwing off big cash surpluses. When the baby boomers retire, we will go into cash deficits. Then the cost of the President's tax cuts truly explode, driving us off the cliff into deficits, and deficits that are totally unsustainable.

I note the Senator from New Jersey is seeking time. He is also an extraordinarily valuable member of the Senate Budget Committee. He is somebody whose expertise in financial matters has been demonstrated in the private sector and public sector. Very few have been as successful as he has been in the private sector, and he was successful in understanding how the economy works. How much time does the Senator seek?

Mr. CORZINE. I would like 10 minutes. I might go a few minutes beyond that.

Mr. CONRAD. I will be happy to yield 10 minutes to the Senator from New Jersey.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Fifty-two minutes.

Mr. CONRAD. I will be happy to yield 10 minutes to the Senator from New Jersey and any additional time he requires.

Mr. CORZINE. I appreciate it very much.

Mr. BYRD. Mr. President, before the distinguished Senator yields to the very distinguished Senator from New Jersey, will he allow me to thank him, the Senator from North Dakota, for the leadership he continues to provide to the Senate in these budget matters. I thank him for his kind words. Future generations will not rise up to call us blessed.

Mr. CONRAD. I thank the Senator. I yield now to the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CORZINE. Mr. President, I appreciate the time from the Senator from North Dakota. I say to both my colleagues, they are laying out for the American people the nature of a budget resolution that really does undermine our future. Before the Senator from West Virginia leaves, I heard one of the most direct analogies about what we are doing dollar for dollar and that it would take 32,000 years to count the deficit if we went to a $1 trillion deficit. We are actually creating a $1.6 trillion deficit, which I think is 50,000 years. It is very hard for any of us to understand the dimensions of the fiscal irresponsibility we are taking on here.

I compliment the Senator in trying to put this debate in terms which people can picture in reality.

Mr. BYRD. Mr. President, I thank the able Senator.

Mr. CORZINE. Mr. President, I add my strong opposition to this conference report on the budget resolution before us today from a whole host of perspectives. I am certainly no expert on procedural rules, but I have heard a description of an approach to the debates we have had about the budget. It is hard to accept if this is the process by which we want to bring discipline to our budgetary process.

The area I do understand clearly is fiscal matters, and this budget resolution, in my view, is fiscally irresponsible to the extreme. Maybe more important than the accounting issue is it risks enormous harm to our economy in the short term and in the long term. It poses a clear danger to the future of Social Security and Medicare, and it threatens our ability to provide for critical priorities, such as homeland defense and education for our children.

This budget calls for a tax cut of $1.3 trillion over the next 10 years. When we add in the extra interest costs—that is using the assumptions we use now of low interest rates—which are required to pay for that cut, the real cut is $1.6 trillion. It raises the obvious question: Where is the money coming from? It is a question one has to ask when doing budgets: Do we have $1.6 trillion to fund these cuts without raiding the Social Security trust fund or undercutting consensus-driven priorities for the American people?

A few years ago, we had the resources and the ability to evaluate whether we wanted to have tax cuts. We had a $5.6 trillion projected surplus. That surplus was built on sound fiscal policies, ones that accompanied an extremely strong economy for many years. It is hard to understand why we needed to change policies since the economy was doing very well and it had probably the greatest run in the 20th century. But we felt there was a need to tinker with this $5.6 trillion surplus.

Guess what. It has disappeared, and we have added $1.6 trillion—that 50,000 years the Senator from West Virginia talked about if you count $1 a minute. We do not have the extra dimes, nickles, and dollars—a blank checkbook—to fund these tax cuts or increase any of the spending we might want for homeland security, national defense, making sure we invest in our future so that when our men and women come home from the war, they will have an economy that works for their children and their future.

By the way, we are looking at those deficits before these tax cuts, and this proposal in the budget resolution undermines that baseline. So the huge tax cuts proposed in this resolution are going to be relying on payroll taxes that are supposed to be dedicated to Social Security and Medicare. Then they will be financed by putting the remainder on our national credit card.

Who is going to get those credit card charges? It is hundreds of billions of dollars that come with the additional interest we will be paying in the years ahead. As we have heard, it is not this generation, it is the next generation—our children and our children's children. We are laying the burden right out on their shoulders.

I find it completely irresponsible. You certainly would not do that in your own life. That would border on immorality at a family level. This generation, or at least the most fortunate members of this generation, in my view, have no right to transfer the benefits of America for which we all worked so hard and so many have fought for and given their lives for at the expense of future generations.

I do not get it. Just this morning I was at a funeral for a heroic young man in the State of New Jersey who lost his life in Iraq. He made the ultimate sacrifice so we would have a positive future and to protect America. We are doing just the opposite in economic security with respect to this budget.

Beyond the raw, in my view, inappropriateness of this intergenerational transfer of wealth, it is also terrible economic policy. That is why we have had—one of the few times in history—10 Nobel Prize economists—hardly 10 economists can agree on anything—and 500 others signing up to say this does not provide short-term stimulus and really does undermine our long-term credibility, our long-term fiscal health.

It is very simple what it is going to do. It actually creates antigrowth policies in the sense we are going to create deficits, and as the economy takes off, interest rates will rise and there will be this crowding out—which has gone on off and on when we have run these big budget deficits over time—and undermining of private sector initiatives, and that will depress future economic growth. There are many models that verify this and many people making those arguments. We heard that in the group the Senator from West Virginia talked about in the article on Wednesday—a Republican, a Democrat, conservative, liberal. This is not a policy that is in the mainstream of economic thought, of business thought about how we are going to grow the economy over time.

Unfortunately, these negative effects of heavy fiscal deficits are going to last for decades. We have this baby boomer situation where we are going from 40 million 65 and older to 80 million, give or take a couple million on both sides of those numbers, and they are going to raise the cost of Social Security and Medicare in future years.

If we are going to maintain those programs, we have an incredible car crash coming with regard to our fiscal conditions, even before these tax cuts.

It is not as if we do not have a need to do something about the economy now. I could go through the employment situation. We have lost 460-some-odd thousand jobs in the last 2 months. I check these weekly unemployment numbers, and they are startling. We have people out of work, working part time, dropping out of the labor force. It is not a pretty picture. We need stimulus now. We are having serious shortfalls in the ability for the economy to

produce those jobs, and I do not see anyone saying that in the near term this package of proposed tax cuts is going to have much, if any, impact on creating jobs.

It might be talked about in some kind of long-term context. At least there is a legitimate debate about whether that works. I actually think the mainstream comes out and says that does not even work in the long run, but there can be an argument about it. In the short run, it is almost universal it has little, if any, impact.

We have lost 460,000 jobs in this economy in the last 2 months. President Bush could very well end up being the first President in 50 years to preside over a decline in the total number of private sector jobs in the economy. I do not see this in the self-interest of the President and the administration with regard to good economic stimulus programs.

There are plenty of problems we can talk about. Business investment has declined in all but one quarter in the period of time we have been here. The stock market has obviously plummeted. We are now using only about 75 percent of our Nation's productive capacity. We can go on and on. There are just a series of problems.

So we have a continuing sense of lack of direction about dealing with the economic circumstance we have, and just at a time when what we are doing is pushing more of the same policies that we have been following for the last 2 ½ years. At least in the world I come from, when something is not working, you admit it, you change it, you move on; you do something else.

All we are doing is changing the level of the red ink we have already put on the paper, and we are going to have greater red ink. It is going to hurt this country's economic well-being in the years ahead.

Like my colleagues, I hope we will stand back, evaluate this budget resolution, think about that $1.3 trillion that is going to put us deeper in debt—$1.6 billion if we count the interest—and say no to this budget resolution because it undermines the health of the American economy, it does not improve it.

I think we are going to be looked at in the history books as a Congress that has really put us into the tipping point of fiscal red ink for as far as the eye can see, for generations to come, and I think it is just wrong that we are funding it out of Social Security, funding it out of payroll taxes. It is an intergenerational transfer, to future generations, of the obligations. I think historians will say we are not doing what it is our responsibility to do, which is to bring fiscal sanity and responsibility to the American budget.

This is a system that depends on the rising tide lifting all boats. This budget, and particularly the tax cuts that are implied in it, do anything but lift all boats. They are targeted at a very narrow group. I hope my colleagues will stand up and say no to this budget and do the right thing. I really do hope we can reconsider this and move forward.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. NICKLES. I yield such time as he may consume to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, I thank the chairman of the Budget Committee for yielding me some time. I also want to thank him and let him know how much I appreciate the yeoman work he is doing in regard to this budget.

I am a member of the Budget Committee. I had an opportunity to serve with him during the deliberations in the committee, and at the very start the chairman of the Budget Committee, Senator NICKLES, said: We are going to work in a bipartisan way. We are going to work with the President, we are going to work with the House of Representatives, we are going to work with the Members of the Senate. But his most important priority is to get a budget passed.

I think he had it right because the most important thing we can do in this Senate is to pass a budget. Now, it may not be a perfect budget that I would envision or the chairman would envision or somebody in the House or the President would envision, but we need to have a blueprint that will lay out the plan for this Senate and how we are going to handle those valuable tax dollars that get sent to Washington, DC.

People refer to the sham in this budget. The sham is when we do not pass the budget. The big failure in the last Congress was that we did not pass a budget. There was an attempt to try to pass appropriations bills and spending bills through the process, but they did not have a blueprint to follow. We did not have a budget. Well, we are working hard to get a budget passed now so we will have a blueprint.

I was struck by the comments that Senator GRASSLEY, the chairman of the Finance Committee, made when he said, I do not recall an amendment that was ever put forward by those who oppose the President's tax cut plan that suggested we ought to cut spending.

There were some Republican amendments, particularly the traditional one offered by Senator MCCAIN, where he goes after porkbarrel spending that was actually working to cut spending, but I do not recall any others.

Then I got to thinking about when we started this process this year, we came back in, we got sworn in, and the first two weeks we are working on an appropriations bill in an omnibus bill. There were 11 appropriations bills we did not get passed in the last session because we did not have a budget, we did not have a blueprint.

While that omnibus bill was going through, there were some $50 billion in amendments that were offered by that group of individuals who are opposing the President's plan. So we move on further and then we bring up the budget resolution itself, and if we look at the number of amendments from those who oppose the budget and oppose the President's plan, there was $1.6 trillion at the desk to be acted on. It ended up being about $950 billion, all spending increases, all increasing the deficit, all increasing the total debt. I am speaking of the 40 amendments we ended up acting on, on the last day when we had our voting marathon.

Then we had the supplemental bill that came up and now is in the conference committee this week that we have been working on, and here we have $12.3 billion in new spending that was put in the supplemental that was supposed to take care of just emergency spending. Many who are opposing this budget today, who oppose the President's plan, the amendments they offered increased spending. They did not cut spending, but they added to the deficit, and they did not have to comply with the budget rules because it was an emergency supplemental.

When we have an emergency supplemental, that means that the budget rules do not apply. So we have Members of this body who cannot wait to have an opportunity to have an emergency supplemental bill come through because amendments or legislation that fall under the budget guidelines that we should pass with every Congress every year, that gives them a chance to get out from under those rules because they increase spending.

The only time we hear from many of the individuals who are opposing this budget, opposing the President's plan, and who speak about how important it is to eliminate deficit spending is when we are talking about tax cuts.

I think we need to have tax cuts. I think we need to have something to stimulate the economy. How are we going to stimulate the economy? I do not think we do it by increased spending. We started our spending binge as early as 2002.

If we look back at what has been happening to the gross domestic product, it has been growing, probably peaked out somewhere around 2001, 2002—our spending binge started about 2000 actually, and all the agencies that want to increase spending always wanted to talk about how much they were spending as a percentage of gross domestic product because gross domestic product measured all the goods and services that happen in our economy. There has been phenomenal growth. So it made their budgets look relatively small in relation to the total economy of this country.

The taxpayers in this country are paying a burden that is among the highest it has ever been in the history of the country as a percentage of gross domestic product, especially since World War II. That tells me we have to do something to stimulate the economy. The only solution is to cut taxes.

Increased spending will not do it. Doing nothing is not acceptable. We need to cut taxes.

I strongly support any effort we have to cut taxes. I don't think our tax cut package is big enough, considering how big our gross domestic product is. It really needs to be more to stimulate the economy.

Finally, we need to get this bill passed. The longer we delay getting it passed, the more it tends to delay our efforts. We need to get our money to take care of the needs of our men and women on the military.

I was as disappointed as anyone about the increased spending driven because of September 11, and increased spending as a result of trying to maintain peace in the world in the Iraq crisis. It is a need we had to face. As a businessman, I realize sometimes you have to incur debt to take care of immediate problems in the business. You always had a plan to pay off the debt. There is a plan in this budget to pay off this debt. That is not easy to come up with.

The chairman of the Budget Committee worked hard to have a plan laid out to meet what the President was wanting to see as far as tax cuts to meet the increased needs, and then to have a plan out there to eliminate deficit spending within 10 years. I compliment the chairman. He is doing a great job. I support the budget.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I take issue with my colleague on this question of spending. This chart demonstrates the long-term relationship between spending and outlays going back to 1981. This is the outlay line, the spending of the Federal Government. It was over 23 percent of gross domestic product in 1982 and has been brought down steadily. When Democrats were in control in 1993, we put in place a 5-year plan. Look what it did to spending.

I hear the allegation that Democrats are the spenders. Let's look at the historial record. When Democrats had control in 1993, this is the trajectory we put spending on—down as a percentage of our gross domestic product, which economists say is the right way to measure spending over time because you are taking out the effects of inflation. We did increase revenues because we faced massive deficits. These deficits during this period were huge as a percentage of gross domestic product.

So we cut spending; we raised revenue; we balanced budgets; we turned deficits into surpluses; we stopped raiding Social Security trust funds. We kicked off the longest period of economic growth in our Nation's history. We had the lowest unemployment in 30 years, the lowest inflation in 30 years, the strongest business investment in history. That is our record. We are proud of it.

When the talk is about spending, let's look at the comparison. This chart looks at, from 1981 going forward, the difference in the Democratic alternative and the Republican budget before the Senate. Here is the difference. They are at 19 percent of gross domestic product, and we are at 19.3. We are both dramatically down from the peak of 23.5 percent in 1982. We have demonstrated spending restraint. This increase in spending that occurred was totally bipartisan. The increase in spending that occurred was for defense and homeland security almost exclusively. We participated in that spending increase together. We all agreed we ought to increase defense and we ought to increase homeland security.

I hope my colleagues, when we talk about the record around here, will reflect on the whole record, and Democrats, despite what we hear all the time, were disciplined in spending, reduced spending when we were in a position to control it, reduced it for 5 years in a row as a percentage of gross domestic product, and balanced the budget.

I give them high marks for getting a budget resolution. But what is in this budget resolution deserves low marks. It is red ink as far as the eye can see, with absolutely no concern for balancing budgets, ever.

Our friend on the other side said this has a plan to pay off the debt. There is no plan to pay off the debt. If this budget is adopted, it doubles the debt. He is talking about a plan to pay off the debt; there is no plan to pay off the debt. This exploded the debt. If they want to get partisan about fiscal accomplishments here they are: The deficits of the Reagan administration, the Bush administration, the Clinton administration, and now this Bush administration. The only time we have been out of deficit, the only time was when the Democrats were in charge and we actually not only got out of deficit, we stopped the raid on the Social Security trust fund. That is a fact.

And the deficits this President proposes are deep and long lasting and could not be timed in a worst way. Here we are on the eve of the retirement of the baby boom generation that will absolutely explode the deficits, and the President's tax cuts will explode in costs at the same time, putting us into a sea of red ink.

How much time does the Senator from Delaware seek?

Mr. BIDEN. Up to 15 minutes.

Mr. CONRAD. I yield 15 minutes to the Senator from Delaware.

The PRESIDING OFFICER (Mr. CORNYN). The Senator from Delaware.

Mr. BIDEN. Mr. President, the country is truly well served by having the Senator from North Dakota as ranking member. I don't know anyone who knows more about facts relating to our budget this year, last year, or in the last decade than the Senator from North Dakota. I am not being solicitous.

A good friend of ours from the State that was much closer to North Dakota than Delaware—from Wyoming, Senator Simpson—used to say in the Senate repeatedly, in his colloquial way: You know, everyone is entitled to their own opinion but not entitled to their own facts.

It seems as though some in the Senate think they are entitled to their own facts.

I will repeat some things that have been said here. They are so consequential I don't know how they cannot be repeated because they have not seemed to have broken through the ether, not here necessarily, but even in the country. To state the obvious, these are very serious times, just as they were at the dawn of the atomic age when Einstein observed ''that everything had changed except our way of thinking.'' We face mortal threats to our Nation from terrorists from rogue nations, expanding international commitments, a looming and gigantic democratic transition—a fancy word for saying there is going to be a bulge in the retirement-age people, myself included, and part of this baby boom generation—and our thinking must now change, not just about how we secure our safety in this dangerous new world but how we maintain our economic security, as well.

And we are here today with yet another budget resolution that calls for more than $1 trillion in new taxes.

One definition of insanity is trying the same thing over and over again and expecting a different result. This budget meets that definition.

Thanks to the people of Delaware, I have been here now for three decades and I have shared this floor with many of my colleagues—well, not that many, actually—who are still here today. How many of my colleagues came to this Chamber back in the 1980s and talked about the need to balance the Federal budget? It was a fervor at the time.

The President of the United States of America, and many on this floor, the most ardent supporters of this outrageous budget deficit, were insisting on—and I remind everybody—a constitutional amendment to balance the budget. Does everybody remember that? A constitutional amendment to balance the budget.

When some of us voted for an exception to that amendment for war, our Republican friends, by and large, overwhelmingly our conservative Republican friends, voted it down and said that is a loophole we cannot sustain.

The President, this President of the United States, indicated that. When we said that when there are exceptional economic circumstances requiring us to deficit-spend as an exception to the constitutional amendment, our Republican friends said no, no, we want to enshrine it in the Constitution of the United States of America. I think the leader of the Budget Committee was probably for a constitutional amendment—without exceptions, we tried to put in.

Now what are we doing? Here we are. Back in the 1980s we were told that

Government needs to run more like a business and like a family; that business and families are under the danger of extending beyond their means and they should stop.

I know it is kind of trite to say it, but I guess we are modeling this after Enron businesses, instead of what we used to know as businesses back in the 1980s.

It took some time, but we eventually took that sound advice and we did balance the budget. As the old political saw goes, ''I have the scars on my back to prove it.'' It took discipline. It took some hard choices that made my constituents angry and my most ardent supporters angry—because we cut their programs.

Here we are again. But this time the Nation is at war—in case someone on this floor hasn't noticed. We are at war. We face ballooning deficits, far larger than anyone could have imaged, especially, I might add, in the wake of our jubilation just 2 years ago about a projected $5.6 trillion surplus over 10 years.

This year alone, counting the costs of the war, our deficit, if we pass this budget, will reach, in the unified budget, which means counting the surplus in Social Security, a $350 billion deficit. If you take out Social Security like we all promised you we would do, and don't count the surplus in Social Security, it is a $587 billion deficit this year.

In the face of this $587 billion deficit, or what everybody likes to talk about now, the unified budget, which takes the Social Security surplus and spends it, the $350 billion deficit that this budget resolution calls for in the face of this more than a third of a trillion dollar deficit, for 1 year we are adding another $1.3 trillion tax cut.

In my 30 years in the Senate I can honestly say, from my perspective, I cannot recall a more reckless or irresponsible proposal to come before this Senate.

Where are the deficit hawks now? Where are those who were demanding for decades that we balance the budget; those who said we couldn't sustain our economy in the face of massive deficits? Where are those who were telling me we cannot let our children and grandchildren foot the bill for our excesses? Where are they now? Where have all—not the flowers—where have all the balanced budgeters gone? What happened to them? They all died and were reincarnated as kings. All my conservative Republican friends—where are they? Where have they gone?

Instead of a careful, conservative approach to our finances, instead of caution and a sense of responsibility in these dangerous times, this budget throws caution to the wind and simply dumps the bill for our choices today on our children and our grandchildren.

A lot of people around this place, since I got here—it is a dangerous habit we tend to—and I hope I don't do it—question one another's motives, not just their judgment. I am not questioning the motive of my Republican colleagues here. I believe that, notwithstanding that the rich benefit the most from this—I don't think that is their purpose. It is a result of what they do. I think their purpose is they truly believe somehow, if they go along with this budget, somehow it will cause the economy to grow so significantly that everybody is going to be all right. We are going to be able to pay for everything and balance the budget.

They even went so far—I will do this in a separate speech since I don't have time—they even went so far as to get someone from the President's Council of Economic Advisers and place him, hire him with the Congressional Budget Office to make a case that this could be done.

As I understand it from my Ph.D. economist on my staff, he ran, I don't know how many—two, three, five, a half dozen econometric models, a fancy term for seeing how this would work out under dynamic scoring, and still could not come up with a balanced budget. Even the Republicans can't, through this new voodoo, come up with a balanced budget—not this year but long term.

We are now in a position where we ask, when we are fully engaged on the ground in Iraq in a war that is not truly over and will not be over until the reconstruction and nationbuilding the President rightly calls for is accomplished, where are they now? Where are my deficit hawk friends now when the $75 billion the President has requested is just the first downpayment on the war?

Let me be clear about the numbers at the outset, before we find ourselves under the weight of deficits that will begin to crush us, before we have to have our old ''cut the deficit'' conversation again, because I promise you it is coming up. We are going to have our ''we have to cut the deficit'' conversation when reality finally sinks in, unfortunately probably too late.

In the face of all the new, massive domestic and international commitments that are staring us in the face, this resolution calls for a $1.3 trillion tax cut. The additional interest charges we will pay on the increased national debt as a consequence of the tax cut and the budget deficit will total over $1.5 trillion. It will bring the amount up to $1.5 trillion, the cost of the tax cut; over $1.5 trillion in dollars that will not be available to meet the new commitments we face.

These funds will not be available, to take one example close to home, to give the Adjutant General of the Delaware National Guard, General Vavala, the medivac helicopters he needs or the civil support he needs in case of biological or chemical attacks.

Sadly, there are countless more examples of tax cuts shortchanging vital programs such as the hundreds of thousands of eligible veterans still waiting 6 months to enroll in a health care system, not to mention 400,000 claims by disabled vets that are still backlogged, not to mention no money for the COPS Program, or underfunding nearly $10 billion in the President's own No Child Left Behind education law, signed just last year and heralding the President as the President of Education.

Forget about Social Security. Virtually all of these tax cuts are borrowed straight from the Social Security system on the very threshold of the time when that system will need not just the borrowed surpluses, but even hundreds of billions of dollars more to meet the commitments to a retiring generation of baby boomers.

Let's be clear now at the outset what we are about to do and the choices we are about to make. I remember clearly those conversations with many of my colleagues. You can be sure as I am standing here today we will be having them again soon.

Mark Twain said a lot of things, but one of the things he said is very appropriate today, in my view. He once said:

History doesn't repeat itself, but it does rhyme.

Boy, am I hearing a rhyme here today. It does rhyme. It rhymes with all the nonsense of the supply-siders of the 1980s. It rhymes. It rhymes: massive tax cuts and deficits as far as the eye can see. They rhyme.

Mr. President, at its core, a nation's budget reflects its basic values. More than any speech, more than any campaign promise, our budget reveals who we are, what we believe in, what we think is important, what we think is not. It reveals our real values, our real priorities.

I do not say this as a criticism, but my value system and that of the Senator from Oklahoma are fundamentally different. My value system and the value system of my friends who are supporting this massive deficit are very different. And that is legitimate. I am in no way casting an aspersion but stating the obvious.

Budgets reflect our values. In these historic times, in my view, our budget policy should reflect two of our most fundamental American values. The first is facing up to our responsibility.

I love all my friends, Democrats and Republicans, who talk about that we have to have more individual responsibility in this Nation. I just ask the average person listening to this debate: Tell me how responsible you think we are being individually. It means putting together a responsible budget that makes hard but necessary choices, just like they are making in their families right now, as I speak. It means doing what is right. And by that I am not saying my Republican friends are doing what is wrong. They mean well, but I think it is wrong.

The PRESIDING OFFICER. The Senator has used 15 minutes.

Mr. BIDEN. Mr. President, I ask unanimous consent that I be allowed to proceed for 5 more minutes.

Mr. CONRAD. Mr. President, I say to my colleague, I do not have that additional amount of time. I will give him an additional 2 minutes.

Mr. BIDEN. I will take the additional few minutes.

It means doing what is right . . . and not handing the bill for our actions to our children and grandchildren.

By returning us to the failed policies of massive deficits this budget does exactly that. It hands it to the generation of young men and women who are fighting in Iraq.

The second value is fairness—a sense that we're all in this together.

In a democratic society like ours, under threats like those we face today, that means having a shared sense that paying our fair share of the bill is not just a partisan buzz-phrase . . . it is not just window dressing . . . It is who we are . . . It is what we are about. It is what this budget should be about, fairness and responsibility.

No one's definition of fairness is a tax cut that gives a taxpayer in the middle income bracket about $250, while those with incomes over a million dollars get a cut of over $90,000.

No one's definition of fairness is a tax cut that gives almost half of all taxpayers a cut of less than $100, while the top one percent of taxpayers get a cut of over $24,000.

Take a look at the income bracket of the men and women who are fighting now in Iraq—the young people who will be handed the bill for the future deficits in this budget. They will be getting less than $100 in tax cuts.

Is there anyone here who will argue that is fair, Mr. President?

In my view, as far as reflecting our values, this budget fails.

It is written as if we faced no new threats to our physical and economic security and it ignores the—small ''d''—democratic standard of fairness that we are fighting for.

I remember when the President was running for office . . . when he was still facing a primary challenge from Steve Forbes and his flat tax, then Governor Bush proposed cutting taxes. The problem back then, as he saw it, was that we were piling up budget surpluses and we were paying off—yes, paying off—the national debt.

So what did he say? He said it would be better to cut taxes, above every other possible use of those resources.

He did not say we should use those resources to fix Social Security, for example, or to restore the integrity of Medicare, or beef up and reorganize the military, or build up homeland defense to meet the new threats we face, or paying for his own priorities such as a missile defense system.

At that time, at the end of the second Clinton Administration, the Federal budget was in surplus. We had actually paid down over 150 billion dollars of the national debt, and we were on schedule to eliminate the national debt altogether by 2010.

Think about that. In seven years, we were going to completely eliminate the national debt . . .

If there was any question about what the government could do if it balanced the budget and ran a surplus—if there was any question why surpluses are better than deficits—it was answered on the morning of September 11.

That morning we learned the nature of the new threats we might face . . . We realized what it would cost to defend the Nation against them . . . It wasn't long before we saw the pricetag for rebuilding Afghanistan . . .

And now we are winding down a war in Iraq that the budget doesn't fully account for . . .

Not to mention the pricetag for nation building which—from the looks of news reports of massive looting this morning—will be substantial.

In his first year in office the President promised that he could cut taxes . . . pay off the national debt . . . add new funds for education . . . launch a missile defense system . . . and—he insisted—take care of any emergency that might come along.

A lot of us were skeptical. We thought the tax cuts were too big . . . that the surpluses were overestimated . . . that the future was too uncertain. But unfortunately it was a vote we lost. He got what he asked for: a tax cut totaling $1.7 trillion, counting interest, over the next decade.

We have seen the results of that mistake—the results are right there in the hundreds of billions of dollars of red ink we are spilling every year.

Simple common sense tells us we must not make the same mistake again.

In ordinary times, these proposals would be bad tax policy, and bad budget policy . . . In these times, they are irresponsible, a failure to confront the challenges we face.

In the face of threats to our security, we are offered weaker Federal finances, with deficits as far as the eye can see . . .

In the face of a weak economy, we are offered a tax cut program that is a windfall for a few instead of jobs for the many who need them . . . In the face of a demographic wave that will overwhelm our Social Security system, we are told to borrow the system's reserves . . .

Let me conclude by suggesting that at a time when our Nation is challenged as never before, we are offered a budget policy that was devised to win a party primary 3 years ago.

Finally, we must be concerned—in these times above all others—about the question of fairness. When we are putting the lives of our men and women in uniform on the line, when we face security threats here at home, in the Middle East, and in Korea, when deficits are once again imbedded in our budget, we have to pull our Nation together.

It does make a difference how we pay for these goals. It is important that America believes we are in this war all together. We cannot send the bill for this to our children and our grandchildren—returning from this war—by returning to another era of deficits. And they are young men and women in their teens and early twenties.

We cannot—in these times above all other times—cut taxes for a small fraction of Americans while we face the unknown costs of reconstructing Iraq and maintaining our security.

Right now, I think the best thing we can do is forego any tax cuts that are not paid for and that are not part of a short-term stimulus package, and forego spending increases, as well, unless they are for homeland security and national defense because anything else—anything else we do, in my view—is just wrongheaded.

In terms of the fairness of this, I will conclude by saying, if one's definition of fairness in a tax cut is to give taxpayers in middle income about $250 this year—with this tax cut—while those with incomes over $1 million get $90,000, and those in the top 1 percent—meaning people making over $317,000 a year—get $24,000 a year, and the kid coming home—with the average pay being paid for a kid who is fighting over there in Iraq now—their tax cut will be $100 on average, give me a break about how this is fair—beyond being wrongheaded and counterproductive economic policy.

I thank my colleague for the time.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, just for the information of our colleagues—I appreciate the comments that have been made by many of our colleagues—I think we are close to wrapping this up. I inform people it is our expectation we will be voting probably no later than 5:30. So if colleagues are off Capitol Hill, at least they can have that in mind. The rollcall vote will probably be starting maybe at 5:20, 5:25, 5:30. So I just want to make that notification.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I thank the chairman and want to echo that for Members on our side. We are very close now to being able to go to the final vote.

How much time remains on our side, Mr. President?

The PRESIDING OFFICER. Fifteen and a half minutes remains.

Mr. CONRAD. Fifteen and a half minutes.

Could I yield 10 minutes to the Senator from New Jersey?

Mr. LAUTENBERG. I would appreciate that. And I will make sure that I do not run longer than that.

Mr. CONRAD. I appreciate very much the Senator from New Jersey, who is the former ranking member of the Budget Committee, and, of course, has a history of extraordinary success in the private sector as well as tremendous contributions in the public sector.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I thank my good friend and colleague

from North Dakota. I think perhaps my tenure as ranking member was the last time we had a balanced budget. But that is intended to be a joke, and I hope the Parliamentarian so notes it.

Mr. President, the conference report to the fiscal year 2004 budget resolution is a curiosity at best. This piece of legislation, if it is adopted, will likely become as notorious, perhaps, as the Smoot-Hawley Tariff Act of 1930.

When President Bush assumed office in January of 2001, he inherited a 10-year surplus forecast, according to the nonpartisan Congressional Budget Office, of $5.6 trillion.

Now, if this budget resolution is adopted, instead of a surplus, we are going to wind up with close to a $2.0 trillion deficit, according to CBO.

A Republican President and a Republican Congress are presiding over a 10-year $7.6 trillion reversal of economic fortune. And they are going to blame it on the recession that began in March of 2001, and they are going to blame it on 9/11, and they are going to blame it on the war against terrorism, the war in Afghanistan, and the war in Iraq.

No, no, no. The single biggest contributor—and everybody should listen carefully and look at the numbers to confirm this—the single biggest contributor to that deficit is the 2001 tax cut, which the President wants to make even bigger, even longer.

The administration and its allies in Congress will say that tax cuts are necessary to ''grow'' the economy. The only things growing in our economy are the number of people without jobs, the budget deficits, publicly held debt, and interest payments on that debt.

There is an old saying: When you're in a hole, quit digging. And that is what we ought to do.

One would think that much would be obvious to the administration and its Republican friends in Congress. Hundreds of prominent economists—literally hundreds—including 11 Nobel prize winners, have come out against these tax cuts.

It sounds like plain, old common sense to me. But the administration and those who control Congress seem immune to that kind of common sense—the kind of common sense that ordinary working families and business leaders from the smallest to the biggest companies use every day: spend less than what you take in.

I will tell you why the administration and the Republicans in Congress seem to be immune to common sense: It is the triumph of a political ideology over good fiscal management. Our Government, paradoxically, is now in the control of people who hate Government.

The tax cuts are not really meant to stimulate the economy; they are deliberately intended to reward well-heeled friends and create a budget crisis that forces us to cut important programs and permits them to turn the jobs of hard-working, loyal Government employees over to private sector contractors who claim they can do things at a cheaper price.

There's a problem with this scheme. People who depend on the programs will get hurt and on the job front, we just converted a huge baggage screening operation at airports across the country, with 28,000 employees, to the Federal Government because the private sector was handling it so poorly.

Republicans have a name for this ''deliberate deficit'' strategy. They call it ''Starving the beast.'' Don't take my word for it. Listen to the words of two influential Republicans, economist Milton Friedman and activist Grover Norquist.

On January 15, the Wall Street Journal ran an op-ed piece written by Milton Friedman, entitled, ''What Every American Wants.'' Part of what he wrote reads as follows:

> . . . how can we ever cut government down to size? I believe there is one and only one way: the way parents control spendthrift children, cutting their allowance. For government that means cutting taxes.

That's Milton Friedman's interpretation of Congress: spendthrift children.

He went on to say:

> . . . Resulting deficits will be an effective—I would go so far as to say, the only effective—restraint on the spending propensities of the executive branch and the legislature.

He concluded by saying:

> . . . a major tax cut will be a step toward the smaller government that I believe most citizens of the U.S. want.

The last part is a pretty breathtaking statement for someone who has never been elected to any public office. But more important, the op-ed piece reveals the utterly cynical strategy of deliberately creating deficits ''as far as the eye can see'' until the public becomes sufficiently alarmed to demand some responsibility out of its elected officials.

I also mentioned Grover Norquist who heads Americans for Tax Reform. On May 21, 2001, Mr. Norquist appeared on National Public Radio's ''Morning Edition'' and said:

> I simply want to reduce it [government] to the size where I can drag it into the bathroom and drown it in the bathtub.

Interestingly, Mr. Norquist, who is another person who has never been elected to any public office, denied making such a statement in a more recent interview with Bill Moyers. But, as the saying goes: You can look it up. I have the transcript.

> I simply want to reduce it [government] to the size where I can drag it into the bathroom and drown it in the bathtub.

So, according to Messrs. Friedman and Norquist, elected officials are nothing more than spendthrift children and government—Social Security and Medicare, environmental protection and Pell Grants, national parks and the Coast Guard, veterans' benefits and disaster relief, the SEC and the FBI and all other hard-working, loyal Federal employees—are all things that should be drowned in the bathtub.

If this budget resolution is adopted, unified deficits will reach record levels in 2003 and 2004 of $347 billion and $350 billion, respectively, and will total more than $1.7 trillion through 2013.

Excluding Social Security, deficits will reach $558 billion in 2004—that is the coming year—and will exceed $400 billion in every year through 2008, and will total more than $4.5 trillion by 2013.

When the government runs deficits long enough, then Congress has to raise the debt ceiling. That is what happens. If we spend too much or, in this instance, cut revenues too deeply, the government has to go ahead and borrow money to meet its needs.

The majority doesn't have the courage and probably doesn't have the votes to bring up free-standing legislation to increase the debt limit. So they resorted to a ploy: Under House Rule XXVII, adoption of the conference report before us will result in the House being ''deemed'' to have passed a joint resolution increasing the statutory limit on the public debt.

This conference report states that the conferees anticipate that the debt ceiling will be raised from $6.4 trillion to nearly $7 trillion, an increase of $984 billion. That is the single biggest increase in the debt limit in history, surpassing the $915 billion increase the first Bush administration needed in 1990.

The debt ceiling was under $6 trillion when this administration took over, and we were actually moving away from it because we were running budget surpluses. If we adopt the administration's budget blueprint today, the debt ceiling will have to be doubled to $12 trillion by 2013. That is an extra $6 trillion in debt.

The amounts are staggering. It is hard to put them into a format that everybody can understand, but I'll try: this extra $6 trillion amounts to $21,429 worth of debt for every man, woman, and child in America.

This is what is happening while we are at war and with the baby boom generation on the verge of retirement. It would be impossible to mangle things so badly by accident. It can only be done by design.

The triumph of ideology may bring joy to those currently in power; the ideologues in control may think that their ''starve the beast'' strategy will make our country stronger. But the problem with ideologues is that they shape reality to fit their ideology. It should be the other way around.

To paraphrase Ronald Reagan, ''the trouble with our conservative friends isn't that they are ignorant, it's just that they know so much that isn't so.''

Destroying the Government will not stimulate the economy. It will cripple it. Starving the beast will not strengthen our Nation. It will weaken it, immeasurably and perhaps permanently.

I urge my colleagues to vote against this budget resolution conference report that is as cynical as it is reckless.

I yield the floor.

MENTAL HEALTH PARITY ASSUMPTION

Mr. DOMENICI. Mr. President, I compliment my friend from Oklahoma and the Chairman of the Senate Budget Committee on a job well done. He has skillfully navigated a difficult course to produce the budget conference report before us today. Congratulations.

I would like to raise the issue of mental health parity as the Senate debates the FY 2004 Budget Resolution Conference Report.

It is my understanding the conference report before us assumes the revenue impact of enacting a mental health parity law by using the Congressional Budget Office score for S. 543 from the 107th Congress of $5.4 billion over 10 years. However, I want to make sure that this is indeed the case because the assumption I just mentioned is not specifically referenced in the conference report. Rather, the overall revenue number is such that it assumes Congress will pass mental health parity legislation.

Mr. NICKLES. I understand the concern of the distinguished senior Senator from New Mexico about mental health parity, and I would concur with my colleague's assessment. The conference report does assume the revenue impact of enacting mental health parity legislation.

Mr. DOMENICI. I thank the distinguished Chairman for his consideration and explanation of this important matter.

Mrs. MURRAY. Mr. President, I rise today to express serious concerns about the budget resolution conference report. This is a 10 year blueprint for disaster that ignores the real priorities of working families. It eliminates all of the gains we made in the Senate that addresses the real fiscal challenges we face, while setting the Nation on a course of fiscal irresponsibility. This budget's contents and consequences will hurt the health of our nation.

The budget agreement before us, which I want to point out was filed late last night, takes us back to the failed economic policies of the 1980's that resulted in a tripling of the national debt. It also builds on the failed economic record of this administration.

Since the President took office in 2001, we have lost 2.6 million private sector jobs. Many of these jobs were in the high tech and manufacturing industries so important to Washington State, which is one of the reasons our State has one of the highest unemployment rates in the Nation. The number of people unemployed for 6 months or longer has tripled. Real business investment has fallen. And finally, the $5.6 trillion 10 year surplus that this administration inherited has been converted to a $2 trillion deficit in a little over 2 years.

America's finances are deep in a hole, but rather than reaching for a ladder, this budget proposes a bigger shovel. Rather than trying to reverse the downward spiral, this budget drags us deeper and deeper into debt.

The agreement is also deceptive and uses parliamentary tricks to achieve a $550 million tax cut for the few. It also calls for hundreds of billions more in tax cuts to make permanent the failed 2001 tax cut. After 2 years, we are still waiting for the ''economic stimulus'' that was promised from that tax cut.

Despite the claims of my Republican colleagues, these new tax cuts will provide little relief to working families and will have little, if any, economic stimulus. We need a real economic stimulus plan now. We need to invest in the American workers and businesses now, not 5 years from now. The only way to get this economy going is to invest in economic development and growth, not in ineffective tax cuts targeted to the most affluent.

This budget agreement not only fails our families, it will leave millions of children behind. When the President signed the No Child Left Behind Act, he made two promises: First, schools would be held accountable for their progress. And, second, schools would be given the resources to meet these new requirements.

These two always went together—otherwise schools can't make real progress. But the Republican leadership in Congress and the President have broken their promise to our children by not providing the necessary resources.

I was proud that the Senate accepted my budget amendment to increase funding for No Child Left Behind by $2 billion. But the House conferees have stripped out even that modest increase in education.

Congress still has an obligation to fund the new requirements that we imposed on local schools. This commitment means we must provide $9 billion to fully fund the No Child Left Behind Act. Unfortunately, this budget agreement will reduce funding for education over the 10 years. It holds domestic spending on education to roughly half the rate of inflation over 10 years. That means that each year our commitment to education will be less than the rate of inflation. This is the wrong direction. In order to strengthen our economy, we need to invest in tomorrow's workforce by investing in education.

This budget agreement also falls short in supporting our transportation infrastructure. We know that transportation problems plague our biggest cities and isolate our rural communities. In my home State of Washington, our inadequate transportation network is hindering our economy, our productivity and our quality of life.

When we make sound investments in our transportation infrastructure, we create good jobs today, and we build the foundation for our future economic growth. Making our transportation systems more efficient, more productive and safer, we will pay real dividends for our economy and our communities.

This agreement provides little hope to seniors for a comprehensive, affordable Medicare prescription drug benefit. This agreement will allow for the block granting of Medicaid and the elimination of the entitlement. It offers no long term increase in the Federal match for Medicaid. In my home State of Washington, Medicaid could be faced with a $2 billion shortfall. This will mean cuts in programs for the uninsured and massive reductions in nursing home reimbursement. I fear this could lead to hospitals and nursing homes being closed, and that more doctors could refuse to see new Medicare and Medicaid patients.

There are many of us in the Senate who have worked hard to strengthen public health and increase our investment in biomedical research. This is a commitment in prevention and long term savings in health care. We have seen the results of doubling NIH and the impact this is having on conquering diseases such as cancer, MS, Parkinson's and diabetes. Yet this agreement leaves little hope that we can maintain this investment.

I would have to echo the comments of the Senator CONRAD. This budget is reckless, extreme and backwards. Perhaps the saddest conclusion is that this budget fails to invest in our families and our communities.

I urge my colleagues to oppose this dangerous course and work today to strengthen our economy and invest in real economic development.

Mr. DODD. Mr. President, I rise today in strong opposition to the budget resolution which my colleagues and I will be voting on this afternoon.

First of all, I take serious exception to what has gone on here with respect to this year's budget resolution process. In all my years in Congress I have never seen anything quite like it.

The budget resolution we are voting on today is different than the resolution passed by the House early this morning. This resolution creates an unprecedented ''point of order'' which ties the hands of the Senate by creating competing procedural paths between the House and the Senate for approving the size and nature of these proposed tax cuts.

This is like a business keeping two sets of books. That is shady practice for a business and it is awful policy for this Nation's economy.

But, more importantly, I believe that no matter how you look at this budget resolution it is extraordinarily fiscally irresponsible and will lock our Nation into years of record deficits and a skyrocketing national debt.

I believe this resolution is profoundly unfair—providing hundreds of billions in tax cuts for the most affluent Americans who need them least, while slashing critical services from the American families who need them most.

I believe that this resolution will be fundamentally ineffective in addressing the major challenges our Nation currently faces.

I was in this Chamber in the early 1980s, when we debated the utility of

enormous tax breaks benefitting mostly the wealthiest Americans and richest corporations. I was in this Chamber the last time we heard arguments about how passing large tax breaks and accepting huge deficits now will lead us to economic prosperity down the line.

And I was here to witness what those breaks and deficits wrought on the American people: greater unemployment, lower growth, more homelessness, more poverty.

For many of us, this budget resolution is—to quote Yogi Berra—''deja vu all over again.''

President Reagan was a remarkable man, who filled America with a sense of pride and optimism, at a time in our history when such feelings were sorely lacking. But that doesn't mean his fiscal policies were good for America. They were reckless policies that led us down the wrong path.

I was one of a handful of Senators who voted against the Reagan tax cuts in 1981 and 1982. And history shows that the budget policies of the early 1980s were enormously destructive to the fiscal health of our Nation—the shameful legacy of which lasts to this very day.

Our Nation's Federal budget deficit rose from $74 billion in 1980, to $221 billion in 1986, and peaked at nearly $300 billion in 1992.

In 1980, our national debt stood at $712 billion. By 1990 it had reached $2.4 trillion.

Well, ''here we go again.''

Here we are, once again, voting on an extraordinarily reckless budget, based on disproven and discredited economic theories.

The philosopher George Santayana once said, ''Those who fail to remember the past are condemned to repeat it.''

Our collective failure to remember the past, will be, in my view, far worse this time around than the first time we made these mistakes in the 1980s.

This budget resolution locks in the largest deficits in our Nation's history. This year alone, the budget deficit could reach as high as $600 billion. That's more than twice as high as the highest annual deficit ever recorded in American history.

According to the Republicans' own analyses, if these tax cuts are enacted, the deficits over the next 10 years will total as much as $6.7 trillion.

If these tax cuts are enacted, our national debt, which currently stands at a whopping $6.4 trillion—thanks, again, to the budget policies of the 1980s—will rise as high as $12 trillion.

Frankly, I am shocked that we are about to pass a bill that is almost universally recognized as an enormous fiscal mistake.

Even many of the Republican's own hand-picked economic officials concede that the Bush economic package will likely do little to spur growth, and could well stifle it.

This is profoundly unfair—tax cuts for the wealthiest Americans while all others are making enormous sacrifices—including some in Iraq who are right now prepared to make the ultimate sacrifice.

During past Congresses and past administrations, the American people have always been called upon to share the burden that is brought about from conflict.

They have done so by buying government bonds and by even paying higher taxes if necessary to support our troops in times of war. Americans made these sacrifices with a sense of pride because they recognized it as their responsibility.

What past administrations and Congresses did not do was consider tax cuts for the wealthiest Americans while their troops were in battle, which is what this administration and the majority in Congress are doing.

I believe we missed an enormous opportunity here. I believe that we had an historic obligation and an historic opportunity to set our fiscal house in order this year.

We had an opportunity to take enormous steps toward fiscal responsibility, a balanced budget, and economic prosperity. Instead, the agreement that we are voting on today will bring about record-high deficits and will significantly shortchange families across America.

As I said, this resolution is irresponsible, unfair, and ineffective.

It is highly irresponsible in the middle of a war, and in the midst of a severe economic downturn, to have a budget reconciliation bill with more than $1.2 trillion in tax cuts as its centerpiece.

The other centerpiece of this budget resolution is, of course, cutting crucial funding for our national priorities—including homeland security, education, and health care.

And for what? To pay for a tax cut for the wealthy.

While offering tax breaks of up to $90,000 for the most affluent among us, this resolution cuts more than $7 billion over 10 years in services for America's veterans.

As tens of thousands of our young men and women return from the Persian Gulf, we will reward them with cuts to their health care benefits, their education grants, and their opportunities to get ahead.

While assuring the richest of the rich will receive an unprecedented financial windfall this year and over the next 10 years, we are severely shortchanging our children's education—underfunding Title 1 by $5.8 billion, falling short of funding for the ''No Child Left Behind Act'' by roughly $8 billion, and slashing $400 million from after-school programs, which will force nearly 600,000 children out on the street after school.

While making certain the bank accounts of the wealthiest Americans are secure, this budget fails to provide the funding necessary to make certain our homeland is secure.

Money has been slashed for the FIRE grants program—which helps fire departments nationwide obtain the equipment and training they will need to effectively respond to new threats.

And cuts have also been made to the COPS program and other programs critical to our defense against terrorism.

We must attack head-on the argument that says that this tax cut is essential to our economic recovery. Just saying it is, does not make it so. Contrary to the belief of some on the other side of the aisle, deficits do matter. They lower future economic growth by reducing the level of national savings that can be devoted to productive investments—because more and more of the budget will be used to pay past debts, not to put into productive investments.

They exert upward pressure on interest rates, which will mean higher rates for mortgages, new cars, business loans, and education loans—which serve as a de-facto tax on our hardest-working families. They raise interest payments on the national debt. And they reduce our fiscal flexibility to deal with the unexpected.

If we do not take action now to bring these growing deficits under control, those who endorse this document, in so doing, help to create the first generation of Americans less well off than their predecessors.

The prosperity we had in the 1990s did not just come about from one day to the next. It came about through wise and tough decisions from the private and public sector. It took decisions to put an end to smoke and mirror accounting and budget gimmicks. It took tough decisions geared toward fiscal discipline and long term prosperity.

Just 2 years ago, when President Bush first came into office, the Congressional Budget Office projected a surplus of $5.6 trillion over 10 years. And now we are projecting record deficits of up to $6.7 trillion over 10 years. That's a $12.3 billion decline in our Nation's budgetary health and economic prospects.

This administration and the majority of this Congress are digging an enormous hole for our national economy. Their solution is more shovels and more digging. This does not strike me to be the wisest or most responsible course of action to take.

I strongly oppose this budget resolution and urge my colleagues to vote against it.

Mr. HARKIN. Mr. President, our nation is at an economic crossroads. This budget resolution conference report is an important document, setting out a course of policy for the coming decade. I oppose this resolution. I believe it takes us dangerously in the wrong direction as a country.

We face a demographic shift as the baby boomers retire. We need to provide for the costs of Social Security and Medicare in the coming decades. I believe the elderly deserve a decent prescription drug benefit. We must provide a quality education for our children in an ever more competitive world

where a large part of our advantage is the skills of our workforce.

Prior to the 2001 tax bill, we were on a path to eliminate publicly held debt and to meet those needs. Now, the President is again proposing tax cuts of a similar size despite the fact that the surpluses predicted in 2001 have totally disappeared. Those projected surpluses have been replaced by record deficits. We may have historic deficits near $400 billion this year and next.

The ranking member of the Budget Committee explained earlier today on the floor that the largest single factor in turning surpluses to deficits has been that 2001 tax cut. That tax cut, which I opposed, is more responsible for deficits in the long term than the downturn of the economy, and more responsible than the new spending on defense and homeland security that was made necessary by the attacks of 9–11.

The President's new proposed tax cuts are largely provided for in this budget resolution—over $1 trillion worth. If made permanent, their cost to the Treasury will be larger than the entire projected shortfall in both Social Security and Medicare over the coming 75 years.

The proposal before the Senate is radical. So-called supply-side economics, manifested in the 1981 tax cut, brought us huge deficits in the 1980s. Unemployment skyrocketed from 7.4 percent to 10.8 percent in just 15 months. Supply-siders tried again in 2001, and we have lost 2 million jobs. Now we are being asked to bet the farm for the third try. The economists who are so sure that this third bet will work are the same ones who predicted economic destruction when we passed measures to balance the budget in 1993, which led to strong economic growth.

The budget resolution will produce $1.7 trillion in new Federal Government debt. That debt will compete with the private sector for funds, driving up interest rates. And it puts a break on economic growth, especially harming the housing, auto and agriculture sectors.

The Congressional Budget Office has concluded that the President's plan—which is very similar to this resolution—would actually reduce economic growth by almost 1 percent. The CBO, now under a just-departed member of the President's Council of Economic Advisors, did an analysis of the budget proposal under so called dynamic scoring. The supplysiders say that economic analysis will show how much good the budget will do. What did it show? More debt.

I believe that a short term economic growth package could be very helpful. We could make temporary tax relief available to working families immediately and provide financial assistance to states facing fiscal crisis. That would be stimulative. But the budget resolution proposes that only 5 percent of the tax cuts will be available this year. The proposal assumes that a huge share of the tax cuts will go to the very wealthy, those making $300,000, $500,000, and far more than a million dollars a year. There is nothing stimulative about such a proposal.

We need a budget that is balanced, that takes the approach that we need to reduce the debt to take care of the baby boomers and provide for a decent drug benefit for the elderly. Clearly, the $400 billion proposed for prescription drugs and other medical reforms is far too low for that purpose. The total drug cost of the elderly in the coming 10 years is estimated to be $1.8 trillion. While we should not cover all of that cost, far less than a quarter is not enough.

We need a budget that provides for more for the education of our children. This budget calls for education spending that is $4 billion less than the Senate measure for the coming year and $20 billion below that level over the coming 10 years. No Child Left Behind is not adequately funded. IDEA, a program Congress promised to provide 40 percent of the funds for decades ago is still grossly underfunded, meaning higher property taxes in almost every school district in the country.

Mrs. FEINSTEIN. Mr. President, I rise to state my opposition to the fiscal year 2004 budget conference report.

At a time when the United States is engaged in a war and will shortly begin a massive reconstruction effort whose costs are still unknown, at a time of growing deficits and rising debt, and at a time of increasing entitlement spending and increasing interest payments to service that debt, it is highly irresponsible for Congress to engage in such unprecedented maneuvering and gamesmanship to try to force through an overlarge, unstimulative, and unnecessary tax cut.

The parliamentary maneuvering is unprecedented. A conference report is supposed to reconcile differences between the two bodies, but this conference report sets up a mechanism by which two different figures for a tax cut can be considered. It is a clear effort to make an end run around the Senate rules and procedures by advocates of large and irresponsible tax cuts to avoid a vote they know that they simply can't win. It makes no sense, and I urge my colleagues to vote against this conference report.

When President Bush assumed office in January 2001, the Congressional Budget Office projected a budget surplus of $5.6 trillion for fiscal years 2002 through 2011. But under this budget resolution, there will be a deficit of $1.95 trillion. That is a $7.6 trillion turnaround in 2 years.

For fiscal years 2003 and 2004 alone, deficits will reach $347 billion and $385 billion respectively if this budget resolution is adopted, and this does not include the cost of the war or the reconstruction of Iraq.

This conference report provides for tax cuts of $1.3 trillion over the period 2003–2013. With interest the full cost of this tax cut is $1.6 trillion. And in an unprecedented move, the amounts of the tax cut that are reconciled are different in the House and Senate. The reconciliation instructions to both the Senate Finance and House Ways and Means Committee say that tax cuts up to $550 billion over 11 years can be reported.

A special rule prohibits consideration in the Senate of the reconciliation bill that costs more than $350 billion, but it allows the Senate to consider a reconciliation conference report that costs up to $550 billion. This would establish a precedent that could be used in the future to play all kinds of games with the budget resolution. It is a bad solution to an impasse and should be rejected.

There is also an urgent need to fund many priorities which are not dealt with in this budget, and those needs are not likely to disappear over the next decade. Those priorities include, among others: The war in Iraq and the subsequent reconstruction of Iraq, including a 90 billion supplemental appropriations conference report coming to this body shortly; the President's No Child Left Behind education initiative; homeland security; a full prescription drug benefit in Medicare.

Many priorities that are important to Californians are either cut or eliminated altogether, most notably funding for the State Criminal Alien Assistance Program. If that program is eliminated, the burden of processing and incarcerating criminal aliens will fall entirely on thinly-stretched State law enforcement budgets.

When faced with the choice between supporting a bad budget and no budget at all, I must choose the latter.

I support a budget which faces our fiscal needs head-on, even when an economic downturn forces us to make tough choices, and which resists the temptation to further increase the debt burden on future generations of taxpayers. This is not that budget. I urge my colleagues to vote against the budget conference report.

Mrs. BOXER. Mr. President, the budget that passed the Senate was bad. This budget is worse. Though the budget is supposed to set priorities, this budget does not reflect America's priorities.

Overall, for domestic needs, this budget cuts $6.9 billion from what was passed by the Senate. That means less for education, less for health care, less for homeland security. It means $4 billion less next year for education than what passed the Senate—and $20 billion less over the next 10 years.

This budget begins by failing our kids. It provides $8.9 billion less than what was promised in the No Child Left Behind Act, which was signed into law with great fanfare just 1 year ago. That would leave millions of kids behind, and in the program to help States educate disadvantaged children, it would leave more than 600,000 California kids behind. This budget also cuts afterschool programs by 40 percent—kicking

570,000 kids nationally and over 81,000 kids in California out of their after-school programs.

This budget fails our young people struggling with rising college tuition. Conferrees stripped out the Senate provision to increase Pell grants for 4.8 million students nationwide and for almost 600,000 students in California. That means a loss of $165 million in Pell grant aid for California students.

On health care, this budget fails to address national needs. This budget stripped out the Senate provision adding $38 billion to help the uninsured get health care. On prescription drugs, this budget accepts the President's plan to force seniors into HMOs in order for them to get help to pay for needed medicines. It cuts $100 million over 10 years in Medicaid—putting at risk health care for sick and needy children, their parents, the disabled, low-income workers, and the elderly.

On homeland security, this budget leaves us less secure. This budget stripped out the Senate provision providing an additional $2 billion over the next 2 years for port security. This budget cuts support to State and local law enforcement by over $1 billion, including eliminating all funding to hire more police officers and put more police in the schools and eliminating funding for the local law enforcement block grant program. It provides no increase in funding for first responders—those on the front lines of a possible terrorist attack.

Incredibly, this budget eliminated the Senate provision that set aside almost $400 billion to strengthen Social Security.

For highways, this budget is nearly $25 billion less over the next 6 years than the Senate bill. For transit, it is over $7 billion less over the next 6 years. These cuts will make it difficult to pass a transportation bill—a key to economic growth and alleviating the traffic problems in California.

On the tax cut, the budget does too much for the wealthy when more targeted tax cuts with broad benefits would bring dramatically more positive results. This budget increases the overall tax cut to $1.3 trillion over 10 years. The reconciliation tax cut was increased from $350 billion to $550 billion. This was done in order to pass a tax cut that provides 80 percent of the benefits to the richest 10 percent of Americans—and a dividend tax cut that gives 49 percent of the benefits to the richest 1 percent of Americans.

I support tax cuts. I support tax cuts that help working people and target growth. I support Senator SCHUMER's effort to make up to $12,000 per year in college tuition costs tax deductible and create a $1,500 tax credit to help college graduates pay off their student loans. I support increasing the child tax credit and providing a $2,000 tax deduction to help people pay for health insurance. I also support lowering the tax for 1 year on the transfer of capital from abroad for companies willing to invest the savings in jobs at home. And I support increasing the expensing deduction for small businesses. But we can do all of that in a fiscally responsible manner. That is not this budget.

This budget favors the wealthy, turns our priorities upside down, and returns us to the days of exploding deficits and debt. I will vote against it.

Mr. FEINGOLD. Mr. President, I will vote against this budget resolution. The Senator from North Dakota has stated that this may be the worst budget this body has ever considered. It is hard to dispute that statement.

The tax and spending policies outlined in this resolution are reckless. There is no other word for it. Over the 11 years covered by this document, from FY 2003 through FY 2013, the budget resolution produces annual deficits that by themselves would cause concern in any one year. In total, their effect is far worse. The additional debt run up over the 11 years covered by this budget resolution is an absolutely astounding $4.5 trillion.

That is simply an astounding number, $4.5 trillion in debt created just by this document.

According to Budget Committee staff, the budget resolution policies will produce a $2.4 trillion deterioration in the budget outlook for 2003 through 2013 relative to the Congressional Budget Office March 2003 baseline projections. Most of that comes from the $1.3 trillion in tax cuts provided for by this resolution.

Let me quickly add that the true cost of the tax cuts is even higher because we are just charging their cost on the government credit card. If you include the interest costs that arise because we don't pay for these tax cuts but borrow it by running up more debt, then the true cost is $1.6 trillion.

Who will pay for all of this? As the Nobel Prize winning economist Milton Friedman famously said, ''there is no free lunch.'' Someone will be stuck with the credit card tab this budget runs up.

The answer is that our children and grandchildren will have to pay for all of this. The tax cuts and spending increases we pass today will be paid for by our children and grandchildren. That is precisely the tradeoff this budget makes. Tax cuts and increased spending for us, and our kids will have to pay the bill.

The budget policy advanced by this resolution is not sustainable. The $4.5 trillion in new debt produced by the policies outlined in this budget does not include the long term costs of the Iraq war or the cost of postwar occupation and reconstruction. It does not include the cost of addressing one of the most significant problems in the tax code, the expanding impact of the alternative minimum tax. And it makes fundamentally unrealistic assumptions about the spending accounted for in the discretionary accounts, the part of the budget where we find spending for defense, education, transportation, and other critical programs.

In a column that ran in the New York Times earlier this week, several distinguished members of the nonpartisan Concord Coalition offered some telling comments about the future we face under the deficits produced by this budget. This is what they said:

> Congress cannot simply conclude that deficits don't matter. Over the long term, deficits matter a great deal. They lower future economic growth by reducing the level of national savings that can be devoted to productive investments. They raise interest rates higher than they would be otherwise. They raise interest payments on the national debt. They reduce the fiscal flexibility to deal with unexpected developments. If we forget these economic consequences, we risk creating an insupportable tax burden for the next generation.

The Concord Coalition is right. This budget resolution is a prescription for fiscal disaster. The tax cut and spending policies it provides are grossly irresponsible. The budget enforcement rules included in the resolution are no better. Instead of extending the budget rules that have helped impose some fiscal restraint on Congress and the White House since 1990, this resolution rips a $1.5 trillion loophole in them for this year, and opens the door for unlimited fiscal mischief in future years.

It will be extremely difficult to recover from this budget resolution. As we have seen, our economy is resilient, but the damage done by this resolution will be with us for many years. The deficits resulting from the budget policies in this resolution extend as far as we can project. We can only hope that Congress will show more restraint than it has in the recent past, and forego the opportunity provided by this resolution to engage in a binge of fiscal self-indulgence.

Mr. REED. Mr. President, in 2001, at the President's urging, Congress passed the Economic Growth and Tax Relief Reconciliation Act, which provided $1.35 trillion in tax cuts over 10 years. While I have consistently voted to reduce the tax burden of working families, I voted against the President's tax cut because it left too few resources for debt reduction and came at the expense of reforming Medicare and Social Security, providing a prescription drug benefit, and supporting critical investments like education, the environment, and national defense. A year later, the economic evidence indicates that the President's 2001 tax breaks have had little positive effect on the economy.

The economy continues to be in a slump and, now, we are in the midst of considering another large round of tax cuts that would help wealthy Americans. These tax cuts would also come at a time of record budget deficits and would break from the longstanding congressional practice of not passing tax cuts in times of war.

The Republican budget resolution calls for $1.3 trillion in additional tax cuts over the next 11 years. In an unprecedented move, the House and Senate Republicans are including two reconciliation tax numbers—rather than

one so they can use the reconciliation procedure to pass a bigger $550 billion tax cut. These tax cuts will add to long-term deficits and further impede economic growth.

Last week, the newly released labor market data confirmed again that there is a crisis facing America's working families. Mr. President, 108,000 more jobs were lost in March, including 68,000 in the private sector. There are 2.6 million fewer private payroll jobs than there were when the recession began.

Nationally, the number of long-term unemployed rose to 1.8 million in March, far higher than the 660,000 long-term unemployed in January 2001. There were 445,000 new unemployment insurance claims filed last week, up from 407,000 the prior week.

The economy is in as much trouble as it was in the early 1990s, if not worse. The latest study by the Joint Economic Committee shows that during the last 4 months that private sector job loss in the current recession is now larger and more serious than the private sector job loss in the 1990 recession.

With so many Americans out of work for far too long, the persistence of job losses and the clear signs of no economic recovery anytime soon, the need to pass another extension of unemployment insurance benefits is overwhelming. These benefits are set to expire on May 31, and the last time the extension was passed, it did not even include assistance to approximately one million workers who had exhausted all of their unemployment benefits and still found no work. Yet the budget conference report fails to provide for further extensions to help victims of this recession who are struggling to take care of their families and struggling to find work.

Furthermore, just yesterday the IMF, in its annual report, projected that the world economy would grow 3.2 percent this year, down from its previous projections. It expects the U.S. economy to grow 2.2 percent this year and 3.6 percent next year. Commenting on the current administration's economic plans, IMF research director Kenneth Rogoff said, ''Suppose for a moment we were talking about a developing country that had a gaping trade deficit year after year as far as the eye can see, a budget ink spinning from black into red, open-ended security costs and an exchange rate that has been inflated by capital inflows. With all that I think it's fair to say we'd be pretty concerned. The U.S. isn't a developing country, but nonetheless, for the global economy, the tax cut . . . on top of ongoing security expenditures seems awkwardly timed.'' This comes from the IMF that was supportive of President Bush's first round of tax cuts.

With all this negative data and with no upturn in the economy in sight, this budget resolution also makes too many cuts to vital programs and services to pay for the administration's oversized tax cuts. The conference agreement endorses a majority of the tax cuts that were in the President's proposal at the expense of domestic investments that are integral to the recovery of the economy and the welfare of our citizens.

As columnist Bob Herbert observed in the New York Times last week, ''With the eyes of most Americans focused on the war, the Bush administration and its allies in Congress are getting close to agreeing on a set of budget policies that will take an awful toll on the poor, the young, the elderly, the disabled and others in need of assistance and support from their government . . . It mugs the poor and the helpless while giving unstintingly to the rich.'' The Senate budget includes a reduction of approximately $168 billion in funding for domestic discretionary programs in fiscal year 2004. Approximately two-fifths of this funding consists of grants in aid to State and local governments. These cuts will worsen the already severe budget crises that States are facing.

This is a restrictive funding level for domestic discretionary spending, given the continued needs in the homeland security area, the underfunding of the education reforms in the No Child Left Behind Act, need for aid to the States, and the severe structural burdens facing Medicare and Social Security.

The administration and the majority need to stop pushing economic plans that reward the wealthiest Americans and abandon fiscal responsibility. Instead, they need to support real economic stimulus that would provide immediate one-time tax relief for working families, extend unemployment benefits and provide desperately needed fiscal relief to the States.

Lastly, this conference report includes a gross misuse of the reconciliation process which was intended to facilitate deficit reduction not deficit increases. Due to the majority's obsession with supersized tax cuts, they have devised a heretofore, unheralded mechanism, to subvert the Senate's right to amend legislation. Indeed, while many of my colleagues can say that while the Senate can enact only $350 tax cut, the sad truth is that this contrivance paves the way for a tax cut that is much larger than many of my colleagues on both sides of the aisle are willing to support.

The budget before us is lamentable, and I only hope that those who support it today will reassess their positions in the weeks ahead.

Mr. HOLLINGS. Mr. President, this is not a conference report, because we never conferred. This is not a concurrent resolution, because we never concurred. To stimulate the economy, the Republicans doubled the debt from $6 trillion to $12 trillion, which will wreck the economy.

This budget is a fraud.

Ms. SNOWE. Madam President, I rise in support of this conference agreement on the fiscal year 2004 budget.

Before I begin, I first want to commend the President for his leadership in initiating the debate on the necessity of stimulating our economy. From the beginning, I have shared his belief that we need to take steps in the short-term to strengthen our economic outlook, and the conference report before us provides us the opportunity to do just that.

I thank our majority leader for his unflagging perseverance in seeing this budget through to a final passage of this conference report. He has shown incredible patience, understanding of the various issues and viewpoints, and he has been willing to work tirelessly to ensure a budget resolution around which we can coalesce.

And in that same light, I want to commend my friend and colleague, Chairman NICKLES, for his Herculean efforts in forging and producing this budget. As I have said in the past, as a former member of the committee I know what goes into this process and Chairman NICKLES has tried to move Heaven and Earth to avoid the colossal failure we had last year under Democrat control when we failed to pass a budget for the first time. And I did not want to see a repeat performance; that would have been exactly the wrong message and completely counter to the interests of our Nation at a time when we are experiencing a troubled economy and when we are at war in Iraq.

The bottom line is, the budget is critical, because it imposes structure and discipline and defines the priorities in Federal expenditures. That should be a fundamental responsibility of Congress, and it was a regrettable lapse of leadership last year that we failed to pass such a resolution. So I want to thank Chairman NICKLES for his commitment to getting this done.

I also want to thank Senator GRASSLEY for his willingness to listen and to work toward a resolution of the concerns I have raised along with Senator VOINOVICH about the size of the tax cut package. It is because of their dedicated efforts—and let me say that Senator VOINOVICH has been steadfast in holding to his deeply held principles—that we have reached the compromise I will now discuss. In fact, it would be entirely accurate to say that without Senator GRASSLEY, we wouldn't have a budget.

I will be voting today for the budget resolution conference report we have before us because the resolution—in concert with commitments I have secured from Finance Committee Chairman GRASSLEY and from Majority Leader FRIST—and I ask unanimous consent that the letter from the majority leader detailing that commitment be placed in the RECORD—will both ensure that we impose on Federal spending the discipline of a budget blueprint, and that tax cuts will be limited to $350 billion through the Senate Finance Committee and floor consideration of any growth package, including any final conference report.

These are the two critical goals I have been working to achieve for the past 6 weeks of this budget debate—and I will ask unanimous consent that a copy of the letter I signed with Senators VOINOVICH, BREAUX, and BAUCUS calling for a limited tax cut of $350 billion as part of reconciliation be printed in the record. I am pleased that, with the assurances I have been given from Senator GRASSLEY and Senator FRIST both men of their word—my goals have been fulfilled.

One of the functions of our letter was to prompt a bipartisan budget resolution, and today that is what we have before us. Senator GRASSLEY has said very eloquently that the people want us to govern—that is our obligation, and I think by coming to this compromise agreement we have fulfilled that responsibility when it comes to the budget.

With the commitment we received, the budget provides funds for a strong, reasonably sized economic stimulus package that can create jobs and opportunities in the short term. At the same time, this agreement will assure that this tax package will be limited to $350 billion—an amount we believe is the right size to achieve this growth without ballooning budget deficits. Let it be remembered that Senator DASCHLE was proposing $112 billion and many in this Chamber wanted nothing at all, so $350 billion is a significant victory.

I want to be clear about what this budget does. The budget agreement provides instructions for both the Senate and the House of Representatives to write growth packages not to exceed $550 billion, and the Senate is further instructed that no tax package under budget reconciliation rules may be more than $350 billion.

To guarantee our position, I have secured language and commitments that neither the tax reconciliation bill reported by the Senate Finance Committee nor the tax bill voted out of the Senate may be more than $350 billion unless additional tax cuts are specifically offset or paid for. And, importantly, Senator GRASSLEY, the Finance Committee chairman, who will also chair the conference committee on the tax reconciliation bill, has provided his personal commitment that Senate conferees will not support reporting of a bill with tax cuts greater than $350 billion, unless additional tax cuts are specifically offset or paid for.

Once again, just as I trusted the word of the majority leader as we agreed to address extraneous special interest provisions in homeland security legislation last fall, so I trust the good word of Chairman GRASSLEY and Majority Leader FRIST. Moreover, this agreement provides written confirmation that the Senate will at no point consider the House-passed legislation, except when it is necessary to be sent to conference, and provides the protections we have sought to ensure a responsibly sized tax package.

I feel strongly about my commitment to a lower tax cut, and this agreement reflects the principles on which I have held firm throughout consideration of the budget.

As I said, from the start I have shared the President's belief that economic stimulus is demanded by the wavering conditions of our economy, which was already on shaky ground before the horrific attacks of September 11. We've lost 2.3 million jobs since the recession began in March 2001—nearly half a million in the past 2 months alone. And comparing today's employment situation with the one prevailing after the 1990–1991 recession—which was followed by a ''jobless recovery''—Charles McMillion, chief economist of MGB Information Services in Washington, recently told the Financial Times, ''The current jobless recovery has now lasted longer and is far worse'' than the aftermath of the 90–91 downturn.

Just this week, the Business Roundtable released results of a survey of CEOs on the economy that revealed a more pessimistic outlook for the economy than just 6 months ago. For example, CEOs were very concerned about employment growth and weak consumer demand. According to the survey, CEOs, on average, expect GDP growth to be only around 2.2 percent over the next 6 months.

We can't afford another ''jobless recovery'' like we had just over a decade ago—or, worse, a ''double-dip'' recession. At the same time, with the demands of our action in Iraq, with the need to fund pressing domestic issues such as the necessity for prescription drug coverage for seniors and for strengthening Social Security and Medicare, and with the deficits we have already seen in a dramatic turnabout from 4 years of surpluses—we also cannot allow ourselves to be drawn into another downward spiral of perpetual deficits.

This is a matter of principle, and one upon which I have stood since I first came to Congress—that a cycle of deficits must not be allowed to continue. If we act wisely, I believe we can provide significant tax relief to help taxpayers and business to get the economy moving, while also achieving fiscal discipline.

This budget is a responsible, well-balanced approach to stimulate our economy in the short term, and to protect our economy from the effects of unnecessary deficits in the long term. As we continue to confront global uncertainties that have cast a shadow over a domestic economy already on shaky ground even before September 11, I believe an immediate growth package is absolutely essential to help create both consumer demand and new jobs. As we move to the next phase in this process, I look forward to working with Chairman GRASSLEY and my colleagues on the Finance Committee to craft such a plan.

We must work to maintain a carefully calibrated plan that will produce short-term benefits for our economy, without jeopardizing long-term fiscal responsibility and economic growth. By capping the size at $350 billion, I believe we can do so without risking the types of deficits that could come from deficit-financing of long-term tax cuts.

At the same time, we will also pass a budget, which I believe is critical because it imposes structure and discipline on Congress, and defines the priorities in Federal expenditures. This is a fundamental responsibility of the Congress, and I am pleased we will be successful in passing a budget this year.

So I believe we should have a growth package in this budget. At the same time, given these unprecedented times and the confluence of circumstances by which they are defined—the economic uncertainties, the war in Iraq, new projections of higher budget deficits, the domestic fiscal challenges that lurk on the horizon with Social Security and Medicare, our responsibility to carefully evaluate the impact of any tax reductions and spending increases in this budget is that much greater.

That is the context in which we must shape a budget—indeed our projected deficits are at historic levels. What is required in this budget resolution is a careful calibration if we are to produce short-term benefit for our economy without jeopardizing long-term fiscal responsibility and economic growth. And let there be no mistake, just as the need for short-term economic stimulus is compelling, so, too, is the need to return to balanced budgets and indeed surpluses as soon as possible.

What it all comes back to is setting priorities. That is what we talked about all those years we were fighting for balanced budgets. We are here to draw lines and make distinctions so as not to exacerbate our economic situation and thereby lead to even greater problems down the road.

A look at the administration's budget shows substantial out-year deficits, even if productivity growth turns out to be higher than expected. If growth is just ''average'' we still face unsustainable budget deficits. This year, given the slow economy and the war costs, our deficits could be near 4 percent of GNP.

Recently, the Social Security and Medicare Board of Trustees reported that between 2010 and 2030, the costs of these programs will increase rapidly, with annual costs exceeding dedicated tax revenues beginning a dozen years before this 'baby boom' wave is over. And the trustees estimate Medicare will become insolvent 4 years earlier than predicted just last year. Importantly, these estimates do not include the addition of a necessary prescription drug benefit.

The bottom line is, we cannot diminish our ability to strengthen Social Security and Medicare. We were looking to the window of opportunity presented by a return to surpluses to prepare for these future challenges. But as we have

seen over the past 18 months, projections of surpluses or deficits can change dramatically, and that opportunity has evaporated. Given the uncertainties we are facing today, given the challenges we face tomorrow—we must exercise caution now so that we do not exacerbate long-term deficits in the years to come, and threaten our ability to address America's long-term priorities in the future.

Once again, the President was right to offer a growth plan. But, we cannot ignore the impact of all of the challenges we face—the cost of war, higher defense spending, the retirement of baby boomers, higher health care spending, and homeland security.

This agreement gives us the chance to unite behind a consensus figure. A figure that is ''right-sized'', a figure that strikes the right balance and one that will allow us to stimulate the economy in the short-term. It represents the most effective and responsible way to stimulate the economy, while advancing a growth package that can achieve the strongest bipartisan support.

If we are to restore balance to the Federal budget, we must exercise fiscal discipline. This budget provides an important step in that direction and I urge my colleagues on both sides of the aisle to join me in supporting this conference agreement.

I ask unanimous consent that the letters that I referred to be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, April 10, 2003.

Hon. CHARLES GRASSLEY,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: This will be a further clarification to the letter I sent to you earlier today.

It once again confirms my conversation with you and Senator Baucus concerning the consideration of a possible revenue reconciliation bill.

Should the Congress adopt a conference report for the FY 2004 Concurrent Resolution on the Budget, and should that conference report include reconciliation instructions to your Committee to report changes in laws to achieve tax reductions of no more than $350 billion, your Committee will not be bypassed, it will be responsible for reporting that reconciliation bill, and that bill will be the vehicle brought to the Senate floor for consideration.

After the Senate reconciliation bill has been advanced to third reading, you or I will move to the consideration of the House a bill, solely for the purpose of amending it with the Senate measure. I will prevent any effort including any unanimous consent requests to move to the House bill except for this purpose.

This is the historic and correct procedure for consideration of such legislation in the Senate. Further, both as a member of the Committee and as Leader, I look forward to working with you to comply with any reconciliation instructions to your Committee.

Sincerly yours,

BILL FRIST, M.D.,
Majority Leader.

U.S. SENATE,
Washington, DC, March 13, 2003.

Hon. BILL FRIST,
Majority Leader, U.S. Senate, Washington, DC.

Hon. TOM DASCHLE,
Minority Leader, U.S. Senate, Washington, DC.

DEAR MAJORITY LEADER FRIST AND MINORITY LEADER DASCHLE: With the international challenges our nation faces, including a possible military engagement with Iraq, continuing tension on the Korean Peninsula, and the ongoing war on terrorism, coupled with sluggish economic growth, we believe it is critical a budget resolution for Fiscal Year 2004 (FY2004) be enacted this year. We are committed to working in a bipartisan manner to this end.

We believe that our nation would benefit from an economic growth package that would effectively and immediately create jobs and encourage investment. We appreciate President Bush's leadership in identifying this need and beginning this important debate with his economic growth proposal.

Given these international uncertainties and debt and deficit projections, we believe that any growth package that is enacted through reconciliation this year must be limited to $350 billion deficit financing over 10 years and any tax cuts beyond this level must be offset. All signatories to this letter are committed to defeating floor amendments that would reduce or increase this $350 billion amount.

We look forward to working with you on a bipartisan budget.

Sincerely,

JOHN BREAUX.
MAX BAUCUS.
OLYMPIA SNOWE.
GEORGE V. VOINOVICH.

Mr. JEFFORDS. Mr. President, I had hoped to be here today to say that the Congress is enacting a blueprint for spending that would improve education, invest in our transportation and water infrastructure, and deal prudently with our ever-increasing projections of budget deficits. Unfortunately, this budget will accomplish none of these goals, and may in fact put this country in dire fiscal straits just as the baby boom generation places new and unprecedented demands on our Social Security and Medicare systems.

Let me begin by saying that I oppose the tax cuts authorized by this budget conference agreement. To call this a conference ''agreement'' is a misnomer; there has been no agreement. In the House, the tax cut allowed under the reconciliation procedure will be $550 billion; in the Senate, $350 billion. If the conferees on the tax bill ultimately agree to a cut larger than the Senate figure, the vote we take on that conference report will be a vote on tax cuts never approved by the Finance Committee or the full Senate.

Perhaps more importantly, this is not the right time for a tax cut. When we passed the 2001 tax cut, we were facing a 10-year budget surplus of $5.6 trillion. It made sense to return some of that projected surplus in the form of a tax cut. But things have changed, and changed dramatically. Unless there are dramatic cuts in spending—which no one realistically expects—we are facing deficits as far as the eye can see. On top of that, we face the unknown costs of the war in Iraq and its aftermath. It is irresponsible to cut taxes under these circumstances.

Perhaps some sort of tax cut could be justified if it stimulated the economy or if it furthered important national interests like education or health care. But the tax cuts being contemplated in this budget will go overwhelmingly to those at the top of the economic ladder—those who are least in need of help. These tax cuts will mean bigger deficits and a higher national debt. The costs for this folly will be borne for years by our children and grandchildren. And areas of national need will get short shrift.

Our Nation's transportation needs get short shrift in this budget.

As ranking member of the Environment and Public Works Committee, I am very disappointed by the treatment afforded to our Nation's roads, bridges, and transit systems in the conference report.

Just over a week ago, 79 Senators recognized the importance of our Nation's infrastructure and the vast need for investment by supporting a bipartisan amendment to increase surface transportation spending.

What has come back from conference is a dramatic cut in funding from the levels put forward by the Senate. We agreed in this body to highway program contract authority for reauthorization of $255 billion. The conferees set the level at $231 billion. While presented as a simple ''split-the-difference'' compromise with the House, the conference inserted provisions that will in fact reduce funding to levels only marginally greater than those authorized for TEA–21 and would barely cover inflation during the next six years.

Our highway program expires this year. Traffic congestion is a growing problem and freight needs are expanding rapidly. The States want us to review the program on time. The strength of the Nation's economy and literally hundreds of thousands of jobs are at stake.

I foresee great difficulty in enacting a transportation reauthorization bill with the numbers proposed in this budget resolution.

Our environmental programs get short shrift in this budget.

I am most disappointed that conferees refused to agree to the additional $3 billion in funding for the Nation's water infrastructure approved by the Senate. As I said during debate on the Senate floor, the estimates of the current funding gap in the areas of water and wastewater infrastructure are enormous. Accounting for inflation, overall funding for environmental programs will be $770 million below fiscal year 2003 levels. Real cuts in programs that keep our water, land, and air clean will have to be made.

Finally, education gets short shrift in this budget.

Earlier this year, the President emphasized that education and homeland

security are integral to having a secure nation with a well-educated and training workforce that would grow and strengthen our economy.

At a time in our history when we are all focused on homeland security, it must be noted that education should be considered the centerpiece of our homeland security efforts. The best security for a nation is to ensure that every individual has the opportunity to receive a high-quality education, from prekindergarten to elementary and secondary education, to special education, to technical and higher education, and beyond.

The budget resolution before us severely underfunds key education programs. The Title One program, which is the heart of the Federal effort in elementary and secondary education, is $6 billion below the level authorized under the No Child Left Behind Act. The resolution also fails to provide for any increase in the Pell grant maximum award.

By authorizing large tax cuts in the budget conference report, we are severely damaging our education delivery system. This Nation has overwhelming needs in education, healthcare, and infrastructure. The tax cuts in this resolution should have gone to meet these needs.

Mr. President, a budget is a statement of priorities. As is clear from my statements, I will vote against this budget because I believe this budget's priorities are dangerously misguided.

Mr. FRIST. Mr. President, let me first congratulate Senator NICKLES. This is the chairman's first budget resolution, and I particularly thank him and his staff for all their hard work these last nearly 7 weeks to bring us to this point today.

It has not been easy, but the committee has met its schedule and completed the budget resolution ahead of the statutory deadline of April 15.

I understand this is the second fastest budget resolution conference agreement ever considered. Senators might be reminded that the last time we adopted a budget resolution in the Senate was almost 2 years ago on May 8, 2001, under the chairmanship of Senator PETE DOMENICI, at a time when the Senate was 50–50.

The Senate, for the first time in the 27 years of the Budget Act, did not adopt a budget resolution last year, did not even consider one here on the Senate floor. And I truly believe that our failure to complete 11 appropriations bills for fiscal year 2003 until just 8 weeks ago, was a direct result of not adopting a budget last year.

So having a budget resolution that we can vote on today, is not only important for how it will allow the legislative calendar to move forward in a more orderly manner, it is also important to the institution. The congressional budget process now is back in operation and that is important not only for today but for the future of how business is conducted particularly in this chamber.

Without a budget, chaos would rein in the legislative calendar.

Without a budget, there would be no fiscal discipline on our return from the upcoming recess.

Without a budget, we would have no enforcement provisions to control mandatory or discretionary spending. It would be open season on spending increases.

Without a budget, interestingly to my colleagues who are opposed to even the modest tax cuts assumed in this resolution, there would be no restrictions on any tax cuts, just as there would be no limit on any spending increases without a budget in place.

But more importantly, the fiscal blueprint before today, is the correct blueprint to provide for economic growth and job creation.

It is going to be absolutely critical that once we return from the upcoming recess that we focus quickly on adopting a tax reconciliation bill that will stimulate investment, increase demand, and begin to create needed jobs.

Equally as important this budget will provide for increased spending where it is needed to provide for homeland security and national defense.

And nondomestic spending will not decline but actually increase over 3.6 percent next year. A rate of growth consistent with the average American family's pay check growth. Government spending should grow no faster than families' income growth.

Mr. President, this is not, as the minority leader suggested, a difficult day. This is a good day to adopt a budget, the first one in over 2 years.

The PRESIDING OFFICER. Who yields time?

Mr. CONRAD. How much time remains on our side?

The PRESIDING OFFICER. Six minutes five seconds.

Mr. CONRAD. Mr. President, we anticipate now that the vote will start at 5:20. We want to alert our colleagues to that. Let me just wrap up, if I may. And then would the chairman like to conclude this debate?

Mr. NICKLES. Thank you.

Mr. CONRAD. All right. Mr. President, let's all understand what we are voting on. This is not a tax cut of $350 billion. There is a tax cut contained in this budget resolution for $1.3 trillion. There may be some side deals that have been arranged to reduce the reconciled amount of that tax cut, but the budget resolution before us provides $1.3 trillion in tax cuts. This is at a time of record budget deficits. We have the biggest budget deficits we have ever had.

The budget deficit for this year will be between $500 and $600 billion, not counting Social Security. If we treat Social Security the way it was intended and we don't take it and use it for other things, the operating deficit is between $500 and $600 billion this year.

This is advertised as a growth package, something that will grow the economy. In our analysis, nothing could be further from the truth. The deadweight of these deficits and debt will burden the economy for years. It threatens the economic security of our country.

This is the analysis of the people who were hired by the White House and the Congressional Budget Office to do the economic analysis. This is what they say:

> Initially the plan would stimulate demand by raising disposable income, boosting equity values, and reducing the cost of capital. However, the tax cut also reduces national saving while offering little new permanent incentives for either private saving or labor supply. Therefore, unless it is paid for with a reduction in Federal outlays, the plan will raise real interest rates, crowd out private sector investment, and eventually undermine potential gross domestic product.

In other words, this plan hurts the economy. It doesn't help it. It hurts it. That is the analysis of the people who are paid to do it by the White House themselves.

The White House's own budget document reveals the long-term circumstance we face: Exploding deficits as a result of exploding costs to the Federal Government from the retirement of the baby boom generation, coupled with exploding costs of the tax cut that is proposed and contained in this budget. The result: we never get out of deficit, ever, at least until the year 2050, according to the President's analysis. The deficits just get deeper and deeper and deeper, threatening the economic security of the country.

I close with this piece that appeared in the New York Times op-ed page on Wednesday. This is a piece done by six of our most distinguished colleagues: three former Senators—two Democrats, one Republican—two members of President's Cabinet in the past—one Republican, one Democrat—and Paul Volcker, former head of the Federal Reserve. I don't know his political affiliation.

They are warning us of the direction we are going. They conclude by saying this:

> Congress cannot simply conclude that deficits don't matter. Over the long term, deficits matter a great deal. They lower future economic growth by reducing the level of national savings that can be devoted to productive investments. They raise interest rates higher than they would be otherwise. They raise interest payments on the national debt. They reduce the fiscal flexibility to deal with unexpected developments. If we forget these economic consequences, we risk creating an insupportable tax burden for the next generation.

That is what is at stake here.

Are we really going to pass a budget that contains authorization for another $1.3 trillion in tax cuts, when we are already in record budget deficits, when we are in a war, the cost of which we do not know, and we are on the brink of retirement of the baby boom generation, which is going to explode the cost to the Federal Government?

Mr. President, anybody who votes for this budget is voting to increase the

deficits by $2.4 trillion. It is precisely the wrong thing at this time. It is precisely the wrong thing. I urge my colleagues to vote no.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, for the information of our colleagues, we are going to be voting momentarily. I have a lot of colleagues who say they want to catch planes, and a lot of the debate has cycled around once or twice. It has been a pleasure to work with Senator CONRAD. I am not totally surprised that he will not vote for the budget resolution—maybe a little disappointed.

I hope we return to the days of having bipartisan budget resolutions. There will be some Democrats who will vote for this. I hope there are several. When we passed this budget 3 or 4 weeks ago in the Senate, there were several Democrats who voted for it. I hope we will get several to vote for it today.

I have heard a lot of complaint about it, most of which is excessive tax cuts. I beg to differ. We have tax revenues over the next 10 years of about $28 trillion, and the reconciled portion of this tax cut, at maximum, would be $550 billion, but probably more like $350 billion. That is a small percentage. Some colleagues say: Wait a minute, there are more; in the outyears, there is $600 billion, and that is basically continuing present law. If you don't do that, you are going to have massive tax increases in 2011, 2012, and 2013. A lot of those tax increases will be on low-income people, raising their rate from 10 percent to 15 percent, reinstating the marriage penalty, or it would be eliminating the $1,000 tax credit per child. I don't want to do that. I don't know that we are going to do it this year. We don't have to do it this year. We should do something to stimulate the economy. We have a small stimulus package—$350 billion for the Senate.

So I hope our colleagues will support this package.

I will make one comment about deficits. Are deficits too high? You bet. Some people say—and I have heard this a lot—they were caused by excessive tax cuts in 2001. But I disagree with that. There are two equations: how much revenue you are taking in, and also how much money you are spending. We have been spending a lot of money because of national defense needs, because of homeland security and, frankly, Congress got in the habit of spending a lot of money during the later years in the Clinton administration when we had a lot of growth revenue. We had spending compounding at double-digit levels—12, 13, 14 percent. We cannot continue doing that.

This budget has fiscal discipline. It does say that the discretionary amounts, compared to last year prior to the supplemental, will grow at about 2.5 percent. We have caps on entitlements, points of order against growing entitlements, and we say that entitlement changes in Medicare should be limited to $400 billion after a bill is reported out of the Finance Committee. We didn't put that in reconciliation. We want Medicare, and we want a prescription drug bill, and we think we can get it as a result of this bill.

Last year, we had no budget. When we had no budget, we didn't get appropriation bills done. We didn't pass 11 of 13 appropriations bills last year because the House and Senate didn't have numbers with which they concurred. We didn't get a prescription drug bill. We didn't function or manage.

I urge my colleagues, let's not be totally focused just on the size of the growth package—and a lot of people have different opinions, such as it is not large enough, it is too big; some want zero, some want $350 billion, some want more, and some may want more than that. Let's also keep in mind that that is a tax figure over 10 years, and it is a very small percentage compared to what we are spending per year, which is $2.2 trillion.

This budget is the only game in town if you want to have any control over the growth of that total expenditure. We didn't pass the budget last year. If we don't pass one this year, the whole budget process is dead. I urge my colleagues, let's be fiscally responsible. This is the only game in town. For people to say, wait a minute, this is too high—the only thing they are talking about being too high is on the tax side. That doesn't count the trillions of dollars they were trying to add on spending.

I urge my colleagues to be responsible. Let's work together and pass a budget that can pass. This can pass. Let's reinstate some discipline that we didn't have last year. I urge my colleagues to support this budget.

I yield back the remainder of my time and I ask for the yeas and nays on the conference report.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the conference report.

The clerk will call the roll.

The legislative clerk called the roll.

The VICE PRESIDENT. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 50, nays 50, as follows:

[Rollcall Vote No. 134 Leg.]

YEAS—50

Alexander	Crapo	Kyl
Allard	DeWine	Lott
Allen	Dole	Lugar
Bennett	Domenici	McConnell
Bond	Ensign	Miller
Brownback	Enzi	Murkowski
Bunning	Fitzgerald	Nickles
Burns	Frist	Roberts
Campbell	Graham	Santorum
Chambliss	Grassley	Sessions
Cochran	Gregg	Shelby
Coleman	Hagel	Smith (OR)
Collins	Hatch	Snowe
Cornyn	Hutchison	Specter
Craig	Inhofe	Stevens
Sununu	Talent	Voinovich
	Thomas	Warner

NAYS—50

Akaka	Dorgan	Levin
Baucus	Durbin	Lieberman
Bayh	Edwards	Lincoln
Biden	Feingold	McCain
Bingaman	Feinstein	Mikulski
Boxer	Graham	Murray
Breaux	Harkin	Nelson (FL)
Byrd	Hollings	Nelson (NE)
Cantwell	Inouye	Pryor
Carper	Jeffords	Reed
Chafee	Johnson	Reid
Clinton	Kennedy	Rockefeller
Conrad	Kerry	Sarbanes
Corzine	Kohl	Schumer
Daschle	Landrieu	Stabenow
Dayton	Lautenberg	Wyden
Dodd	Leahy	

The VICE PRESIDENT. On this question, the yeas are 50, the nays are 50. The Senate being equally divided, the Vice President votes yes, and the conference report is agreed to.

Mr. NICKLES. I move to reconsider the vote.

Mr. SANTORUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NICKLES. Mr. President, I thank all of our colleagues. This has been a challenging process. I especially thank Senator CONRAD. We have had a good debate, a challenging process, needless to say, but we now have a budget. I thank all of my colleagues for their support in making that happen.

The VICE PRESIDENT. The Senator from North Dakota.

Mr. CONRAD. Mr. President, we welcome the Vice President to the Chamber. We congratulate you on the success of our forces half a world away in Iraq. We deeply appreciate that success.

We have concluded action now on the budget resolution. This has been an item of significant debate in the Chamber, and disagreement, but we respect the outcome. Everyone had a chance to express their view. Everyone hopes this works out for the best for our country.

I conclude by thanking the chairman of the committee, who worked very hard in difficult circumstances to produce a budget resolution. We congratulate him on his success. We also thank his excellent staff, who were terrific to work with. Although we had, obviously, disagreements on the two sides, the tone of this debate has been excellent.

I also thank all of my colleagues who expressed themselves, who participated in this debate and made their feelings known.

I conclude by thanking my own staff, my staff director, Mary Naylor, Jim Horney, Sue Nelson, my counsel, Lisa Konwinski, and all of the other staff members who worked long and hard as we considered this resolution.

I yield the floor.

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

Mr. FRIST. A brief announcement now for the benefit of our colleagues. The supplemental is currently being

discussed, debated, amended, worked on very hard as it has been over the last several days, and will likely go into tonight. We expect to pass that supplemental by unanimous consent later tonight, and thus the vote we just took will be the last vote prior to the recess. The next vote will be on Tuesday, April 29. I will notify Members of the exact time on Tuesday, the 29th.

Again, there will be no further rollcall votes between now and the recess.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I rise to congratulate the distinguished chairman of the Budget Committee. Frankly, no matter how difficult, we did produce a budget resolution. Obviously, it is less than unanimous in terms of the likes and dislikes for this proposal, but I submit it is far better for the Senate and for the people of this country that we have a budget resolution than we not have one at all.

Obviously, there will be opportunities to differ during the year, and there are provisions that will be difficult to maintain and to enforce. The truth is, we do know when we do not have a budget resolution, regardless of how contentious it is, we are inviting chaos. We are inviting a delay in almost every one of the processes that are ordinary and normal to this case without a resolution. There are plenty of Senators who do not agree with that. That is why the vote is 50/50. That is exactly what voting is for. Someone wins; someone loses. In this instance, the Vice President did what is provided for in our Constitution, provided the one-vote majority, and now we have a budget resolution.

I am hopeful that the implementation of that budget resolution, contrary to what has been said this evening by the other side, will be good for this country. I am confident that it will be better for this country than not to have one. Of that, I am positive.

Could there be a better one? Maybe, but there cannot be a better one and get votes in the Senate to have that as a budget resolution. If we could, we would have. This is the best we can do.

I compliment Senator NICKLES, the new chairman, and all who worked with him. Obviously, the decorum, the demeanor, in getting this done requires more than a chairman. It requires a ranking member and the ranking member deserves our accolades.

In addition, I guarantee there are plenty of staff hours and toil and work on both sides of the aisle that went into this resolution. I commend each and every one of the staff who worked so hard to get us to this point.

Last but not least, I commend the majority leader for his dedicated and diligent work in helping the chairman get us to where we are today.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. NICKLES. I thank my colleague, Senator DOMENICI. Personally, my admiration for him has gone up dramatically, recognizing that he was either chairman or ranking member for 22 years of the Budget Committee, and every year he was chairman, he was able to get a budget passed. It is not an easy process. I also thank him because he has given me some excellent staff and they have been a great asset. Hazen Marshall is the chief of staff who put together a great team, many of whom were former employees of my very good friend.

Senator DOMENICI, who is now chairman of the Energy and Natural Resources Committee, is doing a fabulous job. This year we will have an energy bill and it will be passed out of the Energy and Natural Resources Committee. When marking it up, it had a lot of amendments. We had a lot of amendments on the budget package in committee and on the floor, and I am sure we will in the energy bill, but I am sure we will have an energy bill to contribute to our country's energy security.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EASTER

Mr. BYRD. Mr. President, the Senate will soon recess. Members will travel. Many will go home, meet with constituents, visit with friends, and attend Rotary Club lunches, Veterans of Foreign Wars rallies, and other important civic events. Some members will travel overseas, visiting U.S. troops and military facilities around the world in order to get a first-hand look at conditions and morale, or meeting with U.S. embassy personnel for detailed assessments of world events. After the contentious debates and harried schedules of past weeks on Capitol Hill, some Members may just relax and enjoy the beauty of spring. Spring, ah spring.

Spring is such a gentle season. The air is soft, the earth is moist, the new leaves and blades of grass are tender, not like the superheated air of summer that parches the earth, toughening leaves and drying lawns into crispy, crunchy deserts. Even the colors of springtime are gentle, all soft purples, buttery yellows and pale pinks of lilac, daffodil, and hyacinth. Only later, in the summer sun, come the vibrant oranges, deep reds, and gaudy color mixes of sun- and heat-loving flowers like marigolds, zinnia, and geranium.

In this most gentle of seasons, the contrast between the beauty outdoors and the images saturating the airwaves is difficult to reconcile. Images of war waged in distant cities in a distant land, of gunfire, bombs, of ambushes, of sudden death and the loss and anguish of families both here and there, do not seem to match the mood of springtime, with its message of birth and life and growth. But the holiday that Christians celebrate this season contains all of these paradoxes. Easter is tragedy and loss, capture and death, as well as rebirth and new life, life everlasting.

The story of Easter is monumental. It is theater for the ages, unmatched by Sophocles, Euripides, or Shakespeare, because it is true. Easter is the history of one man, his life and death highlighted in the annals of history as few individuals are. Though full of miracles beyond wonder and betrayal beyond believing, the story of Jesus of Nazareth ends on a stirring note of hope. His death, the price of life everlasting for mankind, offers solace and hope to the families who have lost sons and daughters, husbands and wives, during Operation Iraqi Freedom. Indeed, the Easter story offers comfort to all of us.

When you have lived as long as I have, and when you have been as blessed as I to have and have had many good friends over the years, you must also live with the loss of those friends and loved ones. Not a day passes but that the untimely loss of my grandson Michael does not make my heart ache. It was 21 years ago this coming Monday. Recently, my colleague and good friend, the former Senator Daniel Patrick Moynihan, passed away at the age of 76. I miss him. There is where he sat—there. At that desk at the end of the back row. That is where he sat, I miss him. I miss my faithful and loving little dog Billy, who died last year. All things in this life must pass. But their memories warm my heart and their friendship is etched in the laugh lines on my face. My belief in the Creator and in his promise of life everlasting in his presence gives me support and comfort.

Though nothing can bring back the hour
Of splendour in the grass, of glory in the flower;
We will grieve not, rather find
Strength in what remains behind;
In the primal sympathy
Which having been must ever be;
In the soothing thoughts that spring
Out of human suffering;
In the faith that looks through death,
In years that bring the philosophic mind.

The poet William Wordsworth wrote that, in his ode, ''Intimation of Immortality.''

This coming Sunday is Palm Sunday, marking the triumphal entry into Jerusalem by Jesus, our blessed Lord. It is a joyous day, but shadowed now by the foreknowledge of what is to come on Maundy Thursday, Good Friday and Holy Saturday—dark, sad days relieved by the miracle of Easter Sunday. On Easter Sunday, our spirits are lifted by the wondrous news of the resurrection and the ascension. Those are uplifting words: resurrection and ascension, rebirth and, for Jesus, a homecoming to sit at the right hand of the Father, His Father. My Father. Your Father.

On Easter Sunday, surrounded by fresh spring flowers, pretty Easter dresses and baskets of brightly colored Easter eggs, we again see Spring in its best light. We see it in the light of renewal and hope. We see it in the amazing story of Private Jessica Lynch of Palestine, WV. The State of West Virginia, and the entire nation, rejoices in her safe recovery. Her homecoming will be a day to remember forever. My thanks, and the Nation's thanks, go out to the brave and honorable Iraqi nationals who risked so much to bring her aid and the daring service personnel who rescued her.

Mr. President, a poem that I memorized long, long years ago reminds us all of how we are touched by the presence of others:

A Persian fable says:

One day a wanderer found a piece of clay,
So redolent of perfume
Its odor scented all the room.
''What are thou?'' was the quick demand;
''Art thou some gem of Samarcand?
Or spikenard rare in rich disguise,
Or other costly merchandise?''
''Nay, I am but a piece of clay,''
''Then whence this wondrous sweetness, pray?''
''Friend, if the secret I disclose,
I have been dwelling with the rose.''
Sweet parable! And will not those
Who love to dwell with Sharon's rose,
Distill sweet odors all around,
Though low and mean themselves be found?
Dear Lord, abide with us, that we
May draw our perfume fresh from thee.

Mr. President, the rose that has perfumed this humble piece of clay is my wife Erma. In 49 more days, God willing, we will celebrate 66 years of marriage. It has not all been a level voyage. There have been ups and downs, as there will be in every marriage, but they have been good years, filled with many Easter mornings.

And now, as I look forward to watching my great-grandchildren hunt for their Easter eggs in the green grass, I am grateful for the opportunity to see so many generations grow up. My sense of hope for the future is redoubled, as it is each Easter time.

It must have been at Easter time when William Jennings Bryan penned those words from ''The Prince of Peace:''

If the Father deigns to touch with divine power the cold and pulseless heart of the buried acorn and to make it burst forth from its prison walls, will he leave neglected in the earth the soul of man, made in the image of his Creator?

If he stoops to give to the rosebush, whose withered blossoms float upon the autumn breeze, the sweet assurance of another springtime, will He refuse the words of hope to the son of men when the frosts of winter come?

If matter, mute and inanimate, tho changed by the forces of nature into a multitude of forms, can never die, will the imperial spirit of man suffer annihilation when it has paid a brief visit like a royal guest to his tenement of clay?

No, I am sure that He who, notwithstanding his apparent prodigality, created nothing without a purpose, and wasted not a single atom in all his creation, has made provision for a future life in which man's universal longing for immortality will find its realization.

I am as sure that we live again as I am sure that we live today.

So my sense of hope for the future is redoubled, as it is each Easter time. That is the beauty of Easter, because that typifies the glorious promise which is ours and which the Saviour gave to us. That question, which was asked in the Book of Job: ''If a man die, shall he live again?'' is answered—answered—by Easter.

I recall, in the Book of John, Jesus came to the grave of Lazarus and said: ''Lazarus, come forth.'' And Lazarus came forth, still wrapped in his grave clothes. And Jesus said: ''Loose him, and let him go.''

So in the midst of war there is life. In the midst of uncertainty there is faith. After each winter, there is spring.

Mr. President, I wish you and all of our colleagues a glorious Easter. May we ponder upon its meaning, and upon its reason, and upon its promise for us.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CUBA'S CRACKDOWN ON HUMAN RIGHTS ACTIVISTS

Mr. DODD. Mr. President, it had been my intent earlier in the week to come and share with my colleagues some thoughts on the recent crackdown on human rights activists in Cuba. I was unable to do it, so before we adjourn for the Easter Passover recess, I want to take a few minutes to express my thoughts on the recent events in Cuba, and to express in the strongest terms possible my sense of outrage over what has happened.

Cuban President Fidel Castro recently initiated severe and repressive measures in an attempt to silence prodemocracy activists on the island nation of Cuba. I rise to denounce in the strongest possible terms those actions. The arrests and show trials of these individuals are well beyond acceptable norms of governance today, and they call into question the very legitimacy of the Cuban state. It speaks volumes about that state's legitimacy when its citizens are denied an opportunity to dialog with the Government authorities about the future of their nation, its political institutions, and its practices.

Over the last 40 years, there have been ebbs and flows with respect to the extent of political space granted to human rights activists and independent journalists by Cuban authorities. Last year, in the runup to the visit of former President Jimmy Carter to Havana, there was a perceptible loosening of restrictions on civil society activities. And the Cuban people exhibited a genuine interest in and motivation toward making the most of this newly found political space. When President Carter was in Havana, he was permitted to address the Cuban people, live and uncensored, on Cuban national television. At that time, he rightfully acknowledged the ongoing democratic grassroots activities on the island symbolized by the so-called Varela Project, headed by Oswaldo Paya. This important grassroots organization has already gathered more than 20,000 signatures on petitions in support of democratic reforms.

Thanks to President Jimmy Carter, the activities of Mr. Paya are now known not only to the international community but to the Cuban people as well.

Representatives of the Varela Project presented a petition with over 11,000 signatures to the Cuban National Assembly, calling on the Assembly to act on some vital democratic issues, including free speech and free press, economic liberalization, and the release of political prisoners. While I understand that the National Assembly has responded to the Varela petitioners, it has done so in a narrowly, legalistic manner that misses the larger political issues that deserve serious consideration by Cuban authorities.

It speaks volumes that thousands of ordinary Cubans have been willing to publicly petition their government seeking change. I for one had hoped that the Cuban people's expressed desire for democratic initiatives would prompt further liberalization of the Nation of Cuba. In fact, if the Castro government abided by its own constitution, this might very well be the case.

Instead, over the past several weeks, my colleagues, my fellow Americans, and the global community have witnessed the Castro government's abrupt and repressive retaliation against Cuban grassroots democracy activists, independent journalists, economists, and other dissidents. On trumped up charges of allegedly ''working with a foreign power to undermine the government,'' the Castro government is attempting to undermine the will of its own people, in my view, and about 75 Cuban dissidents have now been arrested and convicted.

Opposition political party leader Hector Palacios has already received 25 years in prison, and his wife, Gisela Delgado was also convicted. Civil rights advocate Oscar Elias Biscet is expected to be sentenced this week. Economist Martha Beatriz Roque, who has been consistently critical of President Castro's handling of the Cuban economy—and rightfully so, I might add—which happens to be in dire straits, received 20 years in prison for merely doing that. Three others met the same fate, including dissident independent journalist Raul Rivero, independent magazine editor Ricardo Gonzales, and economist Oscar

Espinosa Chepe. Indeed, up to this point, there have been 57 convictions, with sentences ranging from 6 to 28 years.

And, I must say that after examining these tragic cases, it comes as no surprise that although Mr. Paya has not yet been arrested, 42 of the 74 people arrested in these crackdowns are participants in the Varela Project.

Even more troubling is that these trials have been and are continuing to be conducted in a Havana courtroom closed to international diplomats and foreign journalists. I strongly believe that this atmosphere of authoritarianism is indicative not only of the lack of substantial evidence against these individuals, but these trials' lack of domestic and international legitimacy.

For many years, I have strongly supported United States engagement of Cuba. I have worked to dismantle the myriad of restrictions on American interaction with that nation, including those on trade and travel. Once again, let me state for the record my belief that our 40-year long isolationist policy towards Cuba has played, unfortunately, a major role I believe in keeping the government of Fidel Castro in power. It has allowed the Castro regime to blame U.S. policies for the lack of food and medicine in Cuba and has created a siege mentality which has allowed repression to flourish under the guise of national sovereignty. For those reasons I continue to believe that U.S. policy needs to change to some degree.

However, my support for United States engagement of Cuba should not be mistaken for support of the Castro Government or for the reprehensible tactics it resorts to in order to suppress popular dissent with its policies

It is a curious thing, indeed, that prior to these recent actions by Cuban authorities, there was growing support in the Congress and in the Cuban American community in particular for more engagement with Cuba. It leads me to speculate whether President Castro's recent persecution of prodemocracy and human rights activists is not designed to chill efforts in the United States to engage more actively with the island.

I call upon the Castro Government to take immediate steps for the release of its political prisoners, to stop the persecution of Cuban dissidents, and to show respect for and abide by the Cuban Constitution and the will of the Cuban people. Fidel Castro has always said that the Cuban Revolution liberated the Cuban people from tyranny and oppression. The events of the last few weeks would indicate just the opposite. Many of the actions that the Castro regime has taken in recent months, particularly against democratic activists and independent journalists make it crystal clear that tyranny is still the order of the day in Havana under Fidel Castro. It is time for Cuban authorities to drastically reverse course and allow the Cuban people to have a voice in their governance. Then and only then will the Cuban people be truly liberated from tyranny.

Mr. President, I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SECRETARY OF EDUCATION ROD PAIGE

Mr. SESSIONS. Mr. President, we recently heard a wonderful address by Senator BYRD when he talked about Easter and expressed his views about it. He did so as a believer. This is a great and wonderful free country, and we are able to express our views.

I wish to take a few moments to comment on some of the attacks from the left on a comment recently made by Secretary of Education Rod Paige.

Secretary Paige is a great educator, a great man. I am so impressed with him. When he took over the Houston County school system in Texas, only 37 percent of the students were passing the basic Texas test. In 5 years, by bringing on discipline, accountability, a rigorous testing program, not accepting failing schools and being intolerant of them, and being intolerant of educators who were not performing, he doubled the number of students passing that test. As he told me, in the fourth or fifth year, he got a little extra money, but basically he achieved those results without extra money in the Texas State school system.

I believe he is a tremendous man. He loves those children. He loves the children more than he does the bureaucrats and the educators. He wants to know if they are learning, and he cares about them. He cares about their values. He cares about whether or not they are becoming better children, not just smarter children.

The complaints arose from a story published in the Washington Post which misquoted the Secretary. This is what the quote was in the Washington Post, quoting Secretary Paige:

All things equal, I would prefer to have a child in a school that has a strong appreciation for the values of the Christian community, where a child is taught to have a strong faith.

First of all, a lot of Americans believe that. Lots of Americans believe that. I submit a majority of Americans believe that. But, this is what a tape recording of his question-and-answer interview demonstrates that he actually said:

Question:

One final question, Mr. Secretary. We're hearing a lot in Christian colleges and universities about Christian world view education. Do you have any comment on that? What do you think about that?

Answer:

No, I have not heard enough about that to formulate a view. So I'll probably need to pass on that one.

But they did not let him get away with that. You know how they press.

Question:

Given the choice between private and Christian or private and public universities, who do you think has the best deal?

Secretary Paige answered:

That's a judgment, too, that would vary because each of them have real strong points and some of them have some vulnerabilities, but you know, all things being equal, I'd prefer to have a child in a school where there's a strong appreciation for values, the kinds of values that I think are associated with the Christian communities so that this child can be brought up in an environment that teaches them to have strong faith and to understand that there is a force in their lives.

So the Secretary of Education basically was saying he would like to have a child in a school where there is a strong appreciation for values, and those values are sometimes associated with the Christian communities. So that brought the left up in arms.

That is what we are too often reduced to in this country, that one is not able to express those kinds of ideas. So we are at the point now where we question whether or not the words, ''In God We Trust,'' should be on the wall of this Chamber. There they are, several inches high, right over the main door to this Chamber.

Are we going to rip that down? Take down the Ten Commandments that are in the Supreme Court building? Have no prayer at football games at graduation? That pretty well has been taken care of. I remember when former President Jimmy Carter's Attorney General, the wonderful Griffin Bell, was asked about litmus tests for judges, and he responded without hesitation. He had left office at that point or he probably would have caused a controversy. He said: I tell you we ought to have a litmus test. Nobody should be a Federal judge who does not believe in prayer at football games.

We cannot say ''under God'' in the pledge now according to the Ninth Circuit Court of Appeals. They struck down the Pledge of Allegiance. They are not happy with the Boy Scouts because they teach values and they believe in disciplining personal behavior. We certainly cannot do those things in school, the left says.

So what we are asking for, it seems to me, or at least the hard left is, elimination of any reference to moral or spiritual values in public life in this country, and I do not think that is how we were founded.

Secretary Paige has dedicated his entire career to promoting children and promoting diversity, making sure that all children of all ethnic groups and all faiths have access to the best possible education. Yes, he is a man of faith. He is a man of conviction. He is a man of character. Those are good reasons for

him to be the Secretary of Education. Do we want someone who is not?

Secretary Paige talks about preferring a school that has a strong sense of values; not that he is requiring or thinks all children should go to Christian schools. He never said that. He uses Christianity as an example of those values because that is his background, because he has made it very clear he believes the same could be said of other religions.

I agree with what the Secretary said, and I think that those who would attack him for talking about the state of American education are doing a tremendous disservice to our children.

Let's face it, this is part of a regular, organized attack on faith more than it is a complaint about Dr. Paige. It is close to requiring a religious test for public service, prohibited by our traditions in law. It is saying that your religion must be secular; people of faith need not apply. If you have any religious beliefs, keep them to yourself, do not let them guide you, for heaven's sake, in anything that you might do.

Unfortunately, there is a group in this country, small but very vocal, who are offended by any expression of faith in public life. I think we have drifted out of sync, we have drifted away from what we are about. I do not think it is healthy.

Religion is woven into the fabric of our great Nation. Faith has always guided our leaders. I think most Americans were taught, as I was taught, not to make fun of someone else's religion, to respect their faith. It did not have to be the same as yours. Ronald Reagan called America ''a shining city on a hill.''

We are a nation that believes so deeply in our values we confidently promote those values around the world.

Reagan understood the role of religion in fulfilling our mission. Here is what he believed about God in schools:

The Declaration of Independence mentions the Supreme Being no less than four times. ''In God We Trust'' is engraved on our coinage—

And I will note, on that wall right there.

The Supreme Court opens its proceedings with a religious invocation—

Hear ye, hear ye, hear ye. God bless this Honorable Court and save these United States.

And the Members of Congress open their sessions with a prayer.

We have a prayer every time this door opens.

I just happen to believe the schoolchildren of the United States are entitled to the same privileges as Supreme Court Justices and Congressmen.

I think we have gone too far. Thomas Jefferson, whom we know to be the architect of that great Virginia Statute for Religious Freedom, and who is considered to be a great bulwark of the separation of church and state, said:

I consider the doctrines of Jesus as delivered to contain the outlines of the sublimest system of morality that has ever been taught.

He would not make Secretary of State today if he were to say that. People can have different views. Public officials can express their own views. President Reagan said:

Without God there is no virtue because there is no prompting of the conscience; without God, there is a coarsening of the society; without God democracy will not and cannot long endure. If we ever forget that we are One Nation Under God, then we will be a Nation gone under.

If one wants to see a nation that has a virtueless government, all they have to do is look at Iraq for the last 25 years. Certainly, Saddam Hussein was not a religious person of any kind, Muslim or any other faith. To see such a nation gone under and to see a revival, one had to just turn on the television on Wednesday morning to see the exhilaration of the Iraqis dancing on Saddam Hussein's statue.

I thought about that poem: My name is Ozymandius, king of kings. Look on my face and beware, and now it has fallen in the desert and nobody has seen it in a thousand years.

For decades, these helpless citizens have lived under a government without, more or less, virtues or values. The only thing that was valued by the government was the power and privilege of the Saddam Hussein regime. Their own might was their God.

The Iraqi people, on the other hand, have been liberated by a group of nations, led by our Nation, a government that was motivated by values—liberty, justice, democracy, morality, fairness, equality. Those are the sorts of values I think Secretary Paige was talking about. Right and wrong. Right and wrong does not come from the self-interest of whatever dictator happens to be in power. Right and wrong comes from the Creator.

At our core, we are, and remain a people who believe that each life has sacredness, and that is why our military would not leave one life or not rest with one POW still in prison or even without a body recovered because we believe life is sacred. As the Declaration says, we are a people endowed by our Creator with certain inalienable rights. Thus, right and wrong for believers never changes. And millions of Americans, many of them Christians, Muslims, and Jews, take their guidance on questions of right and wrong out of their core faith in a creating God.

Before those on the secular left attack people for expressing their religious beliefs or their desires to instill values and moral and religious values in their children, I would urge them to take a step back and think about the millions of people of faith in this country. We strike the right balance in America, I believe. Religion is okay, we think. It is good. It is to be encouraged, not diminished, but we respect people of other faiths. We do not demean them.

People can come here from Muslim nations and live happily and safely, and if any of them are harmed we defend them; we prosecute those who harm them. We will not accept that. It is our heritage.

The complaints on Secretary Paige should be turned down. It is time to reacquaint ourselves with the principles of our Founders. They got it right. Every person was free to be faithful or to be secular, to follow their own creed. Government should never bring force to bear, our Founders said, on the mind of man. Never establish a church by the government.

But the Constitution does provide free exercise. The Constitution simply says about religious faith: Congress—us—shall make no law respecting the establishment of religion or prohibiting the free exercise thereof.

Secretary Paige was not out stirring this issue up. He had to be asked repeatedly before he even got into the subject. It was not on his mind. He was asked and he gave his personal view. He said: I think. He did not say ''everybody else did'' or ''You must believe.'' He said: I think we should have an appreciation for values, the kinds of values often associated with the Christian community.

What is wrong with that? Have we gone that far down the road to denying the right of our American citizens to freely exercise and comment on their faith? I hope not.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Iowa.

NOMINATION OF JEFFREY SUTTON

Mr. HARKIN. Mr. President, we are wrapping up prior to going on a 2-week break from the Congress. We have the supplemental appropriations bill yet to do, so we are wrapping up this evening, late on Friday night. Congress will be gone for 2 weeks.

Something happens when we come back. Something very important and something very meaningful happens when we come back. I will talk about that for a few moments.

Mr. President, what is going to happen when we come back, there will be at some point soon after we get back from our break, a vote up or down on the Senate floor on whether or not the Senate will advise and consent to approving President Bush's nominee, Mr. Jeffrey Sutton, to be a judge on the Sixth Circuit Court of Appeals.

I will speak for a while tonight about Jeffrey Sutton, but when we come back I will have a lot more to say. I don't think too many people have focused on this. There has been a lot of talk about Mr. Estrada and now there is talk about Judge Owen from Texas but not too much has been said about Mr. Sutton. I will lay out the case and lay out for my fellow Senators and for the public at large what is at stake in this nomination.

First, for the record, Mr. Sutton is a 42-year-old lawyer, currently a partner at Jones, Day, Reavis and Pogue in the Columbus, OH, office. He is an adjunct

professor of law at Ohio State University College of Law. He served as State Solicitor of Ohio from 1995 to 1998. He is a former law clerk to Justice Powell and Justice Scalia and Justice Thomas Meskill of the Second Circuit Court of Appeals. He has been nominated by President Bush to be a member of the Sixth Circuit Court of Appeals.

At the outset, Jeffrey Sutton has a great résumé. He hails from Ohio State Law School, is a former solicitor for the State of Ohio, and he has argued cases before the U.S. Supreme Court. Quite frankly, he has won many of them. So he has a great résumé. Quite frankly, my arguments will not be about whether he is qualified. That is not the point.

I will state at the outset in terms of legal qualifications and background that Mr. Sutton is qualified to sit on a bench. However, I don't believe that is all we have to look at.

I had the opportunity to meet with Mr. Sutton for about an hour and a half in my office. He was kind enough to come to my office. We sat there and discussed an issue of great importance to me and to him. We had a great conversation. I found him to be personable. I found him to be highly intelligent, very bright. He is definitely an accomplished attorney. Frankly, I enjoyed my conversation with him for an hour and a half.

However, I take very seriously our responsibility to advise and consent on lifetime judicial nominees. These are not positions to rubberstamp or just to lightly say that simply because someone is qualified they should be on the court. I have done a careful review of Mr. Sutton's advocacy inside and outside the courtroom.

What I come to, I am not convinced Jeffrey Sutton would be able to put aside his own personal agenda and be a fair and balanced judge. Especially for me, I cannot support putting someone on a Federal circuit court who has worked, worked assiduously, worked intelligently, to undermine the Americans with Disabilities Act.

As many here know, my brother, Frank, now deceased, was deaf. Through his eyes and through his life, my family and I saw firsthand what discrimination against persons with disabilities looks like. It was not something abstract. It was real. It was personal. It was up close. I often said if I could ever be in a position to do something about the kind of discrimination that my brother and so many others had faced, I would do it. Through the generosity of the voters of Iowa, I was in that position. In both the House and later in the Senate, I spent my time working to develop legislation to bring out of the shadows of discrimination, of institutionalization, people with disabilities, bring them out of the shadows and bring into the sunshine of civil rights laws in this country.

The day before the Americans with Disabilities Act was signed by the first President Bush, the day before it was signed, if you were a person of color in this country, say, you were an African American, and you went down the street and answered an ad for a job for which you were qualified, and you walked in there and your prospective employer looked at you and said, I'm not hiring Black people, get out of here. You could have walked out that door, walked down the street, and walked right into the courthouse because we passed a Civil Rights Act in 1964 that outlaws, bans that kind of discrimination, based upon race.

If, however, on that same day a person in a wheelchair, qualified for that job, had rolled that wheelchair down there and the prospective employer looked at you and said, Get out of here; I don't hire cripples, and you rolled that wheelchair down to the courthouse door, the doors were locked. They were open if you were a person of color and you had been discriminated against. But, if you were a person with a disability, the courthouse door was locked because there was no law that banned discrimination based upon disability.

The next day President Bush signed it into law and you, Mr. President, or anybody else who might have a disability, took their place alongside those who had been brought into our civil rights laws in America.

We did not pass that bill overnight. We didn't just all of a sudden decide we were going to pass a civil rights bill for people with disabilities, and pass it. We spent years. I am going to have more to say about this when we come back after the break, but we spent years on this, holding hearings and hearings, in forums all over the United States; a Presidential task force appointed by a Republican President, having hearings all over the United States. There were years of drafting, debating, trying to hone it down to make sure we had it right. With bipartisan support it passed overwhelmingly in the Senate. It passed overwhelmingly in the House of Representatives with bipartisan support.

I will never forget that grand day when President Bush signed that into law on the White House lawn. At that time it was the biggest gathering ever in White House history for the signing of legislation.

Justin Dart was there. Justin Dart was right there on the platform. Justin Dart, the hero of the disability rights movement in America, now also sadly deceased. Justin Dart sitting up there, and President Bush talking about Justin Dart leading this great movement to bring people with disabilities under our civil rights laws.

Here is what President Bush said that morning:

> The Civil Rights Act of '64 took a bold step towards righting that wrong—the wrong of discrimination against people of color—but the stark fact remained that people with disabilities were still victim of segregation and discrimination, and this was intolerable. Today's legislation brings us closer to that day when no Americans will ever again be deprived of their basic guarantee of life, liberty, and the pursuit of happiness.

Justin Dart was there that day. Before he died, Justin Dart wrote this letter:

> I feel certain that the great majority of 54 million Americans with disabilities, and millions more of their family members, join me in urging President Bush to reconsider his nomination of Jeffrey Sutton as a Federal judge.

I won't read the whole letter. I ask unanimous consent Justin Dart's letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REMARKS BY JUSTIN DART, ADA WATCH PRESS CONFERENCE, MAY 19, 2001, WASHINGTON, DC

I feel certain that the great majority of fifty four million Americans with disabilities, and millions more their family members, join me in urging President Bush to reconsider his nomination of Jeffrey Sutton as federal judge.

The Americans with Disabilities Act is the world's first comprehensive civil rights law for people with disabilities. Barbara Bush has described it as the finest accomplishment of her husband's administration.

Abraham Lincoln led this nation to war and died to establish the authority of our federal government to protect the rights of our citizens no matter what the state of their residence.

It is very difficult to understand how President George W. Bush could send to the Federal Court a man who challenges the ''across the board'' constitutionality of a great civil rights law written in the tradition of Abraham Lincoln and signed by his father, George Bush Sr.

I am deeply concerned for the future of American democracy. I am deeply concerned for the civil rights not only of Americans with disabilities, but of all Americans. I am deeply concerned not only for the principle of federal civil rights, but also for the economic prosperity of our nation. As more and more Americans triumph over death to live with disabilities, it becomes absolutely imperative that they be empowered to get off of the welfare rolls and onto the tax rolls.

At the last count more than seventy percent of employable Americans with disabilities were unemployed. Millions more were underemployed. In 1990 President Bush Sr. estimated the resulting burden to the nation to be 200 billion dollars annually, and growing.

Finally I love the American Dream. I am passionately serious about the pledge: ''one nation, under God, indivisible with liberty and justice for all.''

Mr. President, you have pledged to support the ADA. You have pledged to support one nation with liberty and justice for all. You must send people to the court who support those pledges.

Mr. HARKIN. We in Congress met, these many years, overwhelming evidence that discrimination in this country against people with disabilities was rampant, unchecked, building up year after year. It was not just in the private sector but in the public sector. State governments and the Federal Government discriminated against people with disabilities. It was pervasive in our society. We took care, when we passed that bill, to make sure we had the findings and the constitutional

basis to pass muster in the United States Supreme Court.

The signing sealed the work of a monumental bipartisan effort that sought to right decades of wrong. It took the tireless work of Democrats and Republicans alike. As I said, it passed the Senate 91 to 6. The House passed it 402 to 20. Then-Attorney General Thornburgh was a strong supporter. The Chamber of Commerce was on our side, the business community, the States, President Bush, all stood together. Why did we all stand together on the ADA? Because it was the right thing to do. Justice demanded it.

July 26, 1990—President Bush said a lot of good things that day as he signed this bill. As I said, I will never forget it.

I was proud of this because it represented the hard work of a lot of people and it broke down these old barriers of exclusion and intolerance and injustice toward people with disabilities. Now after all the work we did, all the findings, all the hearings, all the documentation we compiled, all that President Bush said, Mr. Sutton—guess what he said. He said it wasn't needed. He said the ADA was not needed.

Why did he say it was not needed? Why, because the States were doing the job. This was a State responsibility and Congress did not have the findings that States had been discriminating. As I told Jeffrey Sutton when he sat in my office that day, I said, ''How could you say that?'' I said, ''Did you read all the documentation? Did you read all the findings that we had? Twenty-five years of studies going clear back to 1965 and beyond; 1974. There were 17 formal hearings by congressional committees, markup by 5 separate committees. There were 63 public forums across the country by congressionally established task forces. There was oral and written testimony by the Attorney General of the United States, Governors, States' attorneys general and State legislators. There were over 300 examples of discrimination by State governments in that record.

Yet before the Supreme Court of the United States, Mr. Sutton said it wasn't needed. That is Garrett v. Alabama. I'll have more to say about Pat Garrett, too. But he said it just wasn't needed.

Regarding the Americans With Disabilities Act, I see them chipping away at a law that symbolizes the inclusion of all Americans in our society. For the past few years, Jeffrey Sutton has held the hammer and the chisel.

In my mind it is not about whether he is qualified to be a Federal judge, or whether he is a nice guy. As I said, I happen to have enjoyed my conversation with him. Frankly, I know who the six Senators were who voted against the ADA in the Senate. I hope to enjoy my conversations with them, too. I just disagreed with them and so did 91 other Senators disagree with them. But that doesn't mean the six who voted against it are bad people. I, frankly, enjoy the friendship of those six people.

That is not the point. The point is whether or not someone should be on the circuit court who holds that same kind of opinion. His qualifications—to me, a judge's qualifications are half of the equation. In other words, I think they have to meet the test of are they qualified. I think the other half of our responsibility is to determine whether or not that person can be a fair and balanced judge who understands the role of Congress in correcting ancient wrongs and helping to make our society more fair and more just. Frankly, in his writings and in his statements, and even in my conversation with him in my office, Mr. Sutton seems to have a unique view of our role here that somehow when it comes to civil rights laws, especially the Americans with Disabilities Act, that we have a very narrow area in which we can operate; the rest must be left to the States.

As I said, you read his writings. I was in the Supreme Court. I sat there in the front row the day he argued the Garrett case, sat right next to Bob Dole. And when I heard him stand up and say the ADA was not needed, I said: Wait a minute. When I heard him talk about how we had not really established the record, that we had not really had the findings of State discrimination, I said: How could he possibly say that? Only someone who did not know what we did could ever say that.

And that is what I talked to him about in my office. How could he say such a thing, when we had all this? Well, he said, yes, OK, he appreciated that, but I never got to the bottom of it with him.

Anyway, his arguments before the Supreme Court articulated that States can do a better job of it than we can, and Congress did not find enough evidence. We found the evidence. It is there. It is in the record. It is compiled.

Mr. Sutton has said a lot of times: Well, I was only representing my client, and I am duty bound as a lawyer to do the best I can for my client. And he was representing the State of Alabama. Well, OK, I can accept that. But here is what Mr. Sutton said on National Public Radio on October 11, 2000. Now, a lawyer's responsibility to fully represent his or her client does not spill over into talking on National Public Radio. That is his personal opinion. And here is what he said:

> Disability discrimination, in a constitutional sense, is really difficult to show.

That is what Mr. Sutton said on National Public Radio.

I am going to talk more about this when we come back after the break, about the extensive record that we found of constitutionally based discrimination against people with disabilities—discrimination that was pervasive in our society, the institutionalization of people, the blatant discrimination in jobs, in transportation, in public places against people with disabilities. And yet he said it is difficult to show.

Well, we showed it. But evidently that was not enough for Mr. Sutton because he has his own narrow view, his own personal view of what the limits of Congress are in addressing these wrongs.

People with disabilities, as I said, locked away in institutions for years; people with mental disabilities subjected to involuntary sterilization because, in the words of the late Justice Holmes: ''Three generations of imbeciles are enough.'' Persons with severe hearing loss, like my brother Frank, labeled deaf and dumb. They sent my brother away to a school, segregated him away from his friends, from his family, from his community, to go to the Iowa State School, as they said in those days, for the deaf and dumb. What does that do to people, simply because they are deaf, being called dumb? For too many years, those who were blind were forced to sell pencils on a street corner to earn a living.

When the day is done, and we all go home, Jeffrey Sutton—no matter how likable he is, no matter how good his qualifications are—has an extreme, limited view of our congressional role to legislate in this important area. From his arguments before the Supreme Court, he seems to believe that each State does its job to protect the constitutional rights of persons with disabilities as the State sees fit.

After what I saw and heard with my own ears, and during the crafting of the ADA over all those years and all those hearings, I cannot fathom anyone reaching that conclusion.

Pat Garrett—I will have more to say about the Garrett case—Pat Garrett, from Alabama, working in a job for the State, came down with breast cancer. She had to go have an operation. She had chemotherapy. She recovered. She went back to work. She was told by one of her fellow coworkers that her boss didn't like sick people. Her boss fired her.

So she brought a case under the Americans with Disabilities Act. She won. She won her case in the lower court. Then the State of Alabama hired Jeffrey Sutton to argue its case before the Supreme Court, and the Supreme Court found for Alabama by a 5-to-4 decision.

It seems to me that according to Jeffrey Sutton, that if Pat Garrett does not like the fact that the State of Alabama did not have a law that protected her rights as a disabled person, why, she can move to Nevada, maybe move to Minnesota, maybe move to Iowa. That is her right, that she can just move out of the State, maybe find some other place to live, where a State does have laws against discrimination against people with disabilities in their State institutions.

But is that what we have become in our country, a patchwork quilt? That is what we found in all these hearings

on the ADA, a patchwork. Yes, some States were good; some States had none—a patchwork quilt.

I do not believe that your civil rights ought to depend on your address. Your civil rights, under the Constitution of the United States, ought to depend on whether you are in this country and you are a citizen of the United States, not whether you live in Minnesota, Iowa, Nevada, or Alabama.

States rights—I don't know which seat the occupant of the chair from Minnesota holds, but it was that great Senator from Minnesota who, back in 1948, took on his own party—my party—the Democratic Party, in that great speech he gave at the convention and said: It is time to come out of the shadow of States rights and into the sunshine of civil rights. And that is when the Dixiecrat, Senator Strom Thurmond, left the party, because of what Hubert Humphrey said.

But Hubert Humphrey was right, it was time to come out of that shadow of States rights and recognize that civil rights inures to all of us as citizens of the United States and not just because I happen to live in one State or another.

But Jeffrey Sutton does not believe that; down deep inside he does not. And I say that only because of what he has said and what he has written, not just because of his representation of a client, but what he has said outside the courtroom.

All the lawyer code and duty talk does not tell the whole story. He has written articles, participated in radio talk shows, panel discussions, expressing his personal views, not his clients', but his own personal views. That kind of publicity is not required by his role as a lawyer advocating on behalf of his clients.

So based on his advocacy, based upon his own words, I am not convinced that a person with a disability, walking into Jeffrey Sutton's courtroom, can expect a fair shake from Mr. Sutton.

Again, as I said, I find him a likable individual, obviously very intelligent. But he means to undo with his position all we have done here to make sure that people with disabilities have their civil rights.

There are over 400 disability rights and civil rights groups in the United States opposing this nomination to the Sixth Circuit. I am hard pressed to know of any disability group that supports Mr. Sutton.

Again, this is nothing personal. People with disabilities understand how tenuous their hold on their civil rights is today. The Supreme Court has chipped away a little bit here, a little bit there on the Americans with Disabilities Act. There are still those in our country who believe we should not have had that law. Mr. Sutton, obviously, is one of those. He says it wasn't needed.

People with disabilities live every day wondering whether or not they will be treated fairly based not upon their disability but on their abilities: Will I be able to get a good education? Will I be able to be treated fairly and equitably in terms of employment? Will I be able to find some reasonable accommodation so I can do a job? Will I go into a place of business and be ignored because I look different, maybe I act differently?

That is what people with disabilities live with every day. They know their hold on this is tenuous. I can understand very deeply the concern that people with disabilities all over America have about this individual, the deep concern they have, because they see in Mr. Sutton the personification of all of the people in their lives who made life harder for them, people who had a view that was narrow, who said that somehow our National Government cannot do anything to secure their civil rights, they only have to look to the State.

I will have more to say about Mr. Sutton. I will close with this. On that National Public Radio broadcast I talked about, he also said:

> I think it is a positive attribute of this system of divided government that when 51 different sovereigns, 51 different legislatures tackle a difficult social problem, they all arrive at different approaches. And the ultimate idea and really transcendent purpose of federalism is to have them compete for the best solution.

That is his personal view. He was not representing anyone. This is Jeffrey Sutton talking:

> I think it is a positive attribute of this system of divided government that when 51 different sovereigns, 51 different legislatures tackle a difficult social problem, they all arrive at different approaches. And the ultimate idea and really transcendent purpose of federalism is to have it compete for the best solution.

What happens when a State wins in these competitions? Do they get a prize? What happens to the people who are in the losing States? Are they just unlucky? What about Pat Garrett? Obviously, Alabama was not competing to have the best antidisability discrimination laws in the country.

I would be the first to say that one of the great things about our system of government is, it does allow for experimentation in different States. It allows different States to approach problems differently. Out of that we do get not a top-down, one-size-fits-all type of government. That is one of the beauties of our system. But when it comes to fundamental issues of fairness and justice and equity, when it comes to the basic, fundamental issues of civil rights, I say again, your civil rights as an American citizen should not depend on your address. It should not depend upon the shadow of States rights. It should depend upon the sunshine of being a U.S. citizen and having the Federal Government make sure that our civil rights are protected no matter where we are.

Again, if we want to have competition among States on education and transportation and all kinds of different things, that is fine. But on fundamental, basic civil rights, one law, one Constitution, one Bill of Rights that covers us all.

Mr. Sutton is going to be before us. He is not now, but I understand he will be as soon as we come back. I wanted to start the debate. Quite frankly, I don't think Mr. Sutton has received the kind of attention and the kind of discourse and debate in this body that a circuit judge of his stature deserves, at least one who has this background and one who by his statements invites this kind of controversy.

We have approved circuit court judges around here almost on voice vote, 98 to nothing, 96 to nothing. I have joined in that. The people were not only qualified, but they didn't raise these kinds of troubling questions about how they will deal with fundamental civil rights laws. But Jeffrey Sutton does. He raises those issues. He has done it on his own.

I will have more to say about his statements when we come back. I am hopeful—not in a vindictive sense or anything like that—that this Senate will disapprove of putting Mr. Sutton on the court, thereby sending a very loud and strong message to people with disabilities all over this country that we passed the Americans with Disabilities Act with our eyes wide open; that we knew what we were doing; that we assembled the data. We had all of the evidence we needed. We compiled the record, and we want to keep it as the law of the land—as the civil rights law of the United States.

It would be a powerful message because I can tell you this. If Jeffrey Sutton ascends to the Sixth Circuit Court of Appeals, Americans with disabilities all over this country will see the hands of the clock turning backward—back, back to the days of discrimination, back to those days when they were afraid to enter that door, or to demand their rights as an American citizen, as a human being. I believe it is going to cause people with disabilities to wonder whose side we are on.

Whose side are we really on? I hope we are on the side of civil rights.

Mr. HATCH. Mr. President, I would like to respond to the comments made by my good friend from Iowa, Senator HARKIN.

I was also a cosponsor of the Americans with Disabilities Act, and I believe very much in that legislation and its goals. It is one of the most important pieces of legislation that I have worked on during my tenure in the Senate. I can certainly understand my distinguished colleague's concerns about the limitations that the Supreme Court placed on the Act in their decision in Garrett. However, I do not believe for one minute that Mr. Sutton's representation of the State of Alabama is in any way indicative of an agenda, personal or otherwise, against Americans with disabilities.

Even the People for the American Way has conceded, ''No one has seriously contended that Sutton is personally biased against people with disabilities.'' Furthermore, Mr. Sutton's opposing counsel in the Garrett case, former Clinton administration Solicitor Seth P. Waxman, has written to me in support of Mr. Sutton. He stated:

I know that some have questioned whether the position Mr. Sutton advocated . . . in the Garrett case reflected antipathy on his part toward the Americans with Disabilities Act. I argued that case against Mr. Sutton, and I discerned no such personal antipathy. Mr. Sutton vigorously advanced the constitutional position of his client in the case, the State of Alabama; doing so was entirely within the finest traditions of the adversary system.

When Mr. Sutton was young, he regularly helped out at his father's school for children with cerebral palsy. As Ohio State Solicitor, he represented Cheryl Fisher, a blind woman who was refused admission to medical school. Ms. Fisher wrote of Mr. Sutton, ''I recall with much pride just how committed Jeff was to my cause. He cared and listened and wanted badly to win for me. It was then I realized just how fortunate I was to have a lawyer of Mr. Sutton's caliber so devoted to working for me and the countless of others with both similar disabilities and dreams.''

In National Coalition of Students with Disabilities v. Taft, Mr. Sutton successfully argued that Ohio universities were violating the federal motor-voter law by failing to provide disabled students with voter registration materials. Benson A. Wolman, former Director of the ACLU for Ohio and currently a member of its National Advisory Council, who recruited Mr. Sutton to work on the case, wrote:

[Mr. Sutton's] commitment to individual rights, his civility as an opposing counsel, his sense of fairness, his devotion to civic responsibilities, and his keen and demonstrated intellect all reflect the best that is to be found in the legal profession.

Mr. Sutton also serves on the Board of the Equal Justice Foundation, a public interest organization that provides pro bono legal services to the disadvantaged. During his tenure on the board, the Foundation has sued three Ohio cities to force them to build curb cuts to make their sidewalks wheelchair accessible, sued an amusement park company that banned disabled individuals from their rides, represented a mentally disabled woman in an eviction proceeding against her landlord who tried to evict her based on her disability, and represented a girl with tubercular sclerosis in a case alleging that the school was not properly handling her individual education plan.

I have received other letters from those who work in the disabled community who support Mr. Sutton. Francis Beytagh, Legal Director of the National Center for Law and the Handicapped, wrote:

I believe Jeff Sutton would make an excellent federal appellate judge. He is a very bright, articulate and personable individual who values fairness highly . . . I do not regard him as a predictable ideologue . . . I recommend and support his confirmation without reservation.

James Leonard, co-director of the University of Alabama's Disability Law Institute, writes:

In my opinion, Jeffery Sutton is well-qualified to sit on the Sixth Circuit Court and should be confirmed . . . I also see no ''agenda'' on Mr. Sutton's part to target disabled citizens . . . Just as I would not infer an anti-disabled agenda from Mr. Sutton's participation in Garrett, neither would I assume from his role in the Fisher case that he had the opposite inclination. Rather, he seemed to be a good lawyer acting in his client's interests.

Beverly Long, Immediate Past President of the World Federation of Mental Health and former Commissioner of President Carter's Commission on Mental Health writes:

I have followed news reports of the intense lobbying against Mr. Sutton by various people who advocate on behalf of the disabled. This effort is unfortunate and, I am convinced, misguided. I have no doubt that Mr. Sutton would be an outstanding circuit court judge and would rule fairly in all cases, including those involving persons with disabilities.

In addition, my good friend from Iowa mentioned that he sat next to Senator Robert Dole at the Garrett arguments. Senator Dole, who has always been a great champion of disability rights, has of course joined the chorus of those who have written in support of Mr. Sutton.

There is simply no evidence to suggest that Mr. Sutton took the Garrett case due to any personal agenda. It is a well-established principle in the legal profession that lawyers should not be held responsible for the positions of their clients. The ABA Model Rules of Professional Conduct state, ''A lawyer's representation of a client, including representation by appointment, does not constitute an endorsement of the client's political, economic, social or moral views or activities.'' Lawyers from across the country have written suggesting that it is not appropriate to attribute a client's views to the attorney, and it is certainly not appropriate in Mr. Sutton's case specifically.

My distinguished colleagues' own constituent and good friend Bonnie Campbell is included in those lawyers. She wrote, ''I strongly urge the Senate to reject any unfair inference that Mr. Sutton's personal views must coincide with positions he has advocated on behalf of clients. It is, of course, the role of the advocate to raise the strongest available arguments on behalf of a client's litigation position regardless of the lawyer's personal convictions on the proper legal, let alone policy, outcome of the case. I am confident that Mr. Sutton has the ability, temperament, and objectivity to be an excellent judge.''

In the Garrett case, Mr. Sutton was advocating for his client, the State of Alabama. Just as accused murderers are entitled to representation under the laws of this country, so are state governments. Mr. Sutton has represented them both. We cannot attribute the position of the State of Alabama to Mr. Sutton, and we should not disparage him for fulfilling his ethical duty of zealous advocacy to his client. If the Supreme Court chose to accept the arguments he put forth on behalf of his client, we must respect its decision. While some of us who worked so hard on that legislation understandably may be disappointed, that disappointment should not be directed at Mr. Sutton. The principle of judicial review is well-established; Mr. Sutton ethically and honorably was fulfilling his role as an advocate. He has no personal agenda against Americans with disabilities. I have no doubt that if confirmed, Mr. Sutton will give any disabled American that comes before him a trial that is fair, impartial, and consistent with all our notions of justice.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. MURKOWSKI). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

MORNING BUSINESS

Mr. SUNUNU. Madam President, I ask unanimous consent that the Senate proceed to a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

DANIEL PATRICK MOYNIHAN

Mr. AKAKA. Madam President, I rise to join my colleagues in honoring the memory of our dear friend and colleague, Senator Daniel Patrick Moynihan. Millie and I extend our deepest condolences and prayers to his wife Elizabeth and the Moynihan family.

History will remember Daniel Patrick Moynihan as one of the most prescient American voices on public policy and international relations issues for the second half of the 20th Century. As a professor, author, adviser to four Presidents, Ambassador to India, and Ambassador to the United Nations, he had a rich and distinguished career, and a tremendous impact on our Nation's public policy and foreign relations, prior to his election to the Senate.

In the Senate, Pat Moynihan's illustrious service to his country and to his constituents in New York for four terms in the world's greatest deliberative body gave greater truth to that appellation. Many of my colleagues have spoken of Senator Moynihan's intellect, the encyclopedic width and breadth of his knowledge on an incredible range of public policy issues—history, architecture, culture, and philosophy, to name a few. He used the power of his intellect, along with great wit and dogged persistence, to fashion a record of accomplishments in the Senate that stands as a testament to his commitment to the preservation of the

family and the welfare of children and the poor, his staunch and principled opposition to communism and totalitarianism, his dedication to civil rights, the Constitution, and the rules and traditions of the Senate, and his passion for historic preservation and architectural distinction.

As chairman and ranking member of several Senate committees, and frequently, as a clarion on the Senate floor, Pat Moynihan helped shape transportation policy, international trade, intelligence matters, foreign policy, and economic and fiscal affairs that strengthened our Nation and our communities. For his myriad achievements, I don't think Senator Moynihan has received the credit he deserves for his role in shaping and shepherding through the Senate President Clinton's deficit reduction and economic plan in 1993. I remember that in the midst of all the responsibilities and pressures he faced as chairman of the Finance Committee, he responded to my request to discuss a few tax issues of particular importance to Hawaii by inviting me to his office for a cordial and illuminating discussion on an array of subjects. Pat Moynihan was always generous with his time and his wisdom. He served his country and the people of New York with elan, style, and grace. He will always be remembered as the gentleman from New York.

We mourn for his passing from this life, but we and future generations will continue to find inspiration, guidance, and courage in the splendid legacy of public service bequeathed the Nation by this brilliant statesman and patriot.

Ms. SNOWE. Madam President, I rise today to pay tribute to Senator Daniel Patrick Moynihan—whose words, thoughts, and deeds will forever reverberate throughout this Chamber and, indeed, throughout our country. I also extend my most heartfelt sympathies to his wife Liz and Senator Moynihan's entire family. We share in their profound sense of loss.

I was privileged to serve with Senator Moynihan from 1995, when I first arrived in the Senate, to his retirement in 2001. He was one of those truly legendary figures on the political landscape, but it was a reputation built not on procedural savvy or the brokering of power, but rather on the crafting and expression of ideas. It was the process of transforming intellectual thought into action—and not simply the process of politics—that will always remain the hallmark of Senator Moynihan's entire, exceptional life.

His was a life not wanting for opportunities to contribute. The curriculum vitae of Daniel Patrick Moynihan reads more as a biography of a man driven to synthesize the world of academics with the realm of politics in order to make a difference—and he did to wherever he served, whether at the Labor Department or at Harvard or as U.S. Ambassador to the United Nations or in the Senate. Perhaps most impressive of all, no man or woman is requested to serve four different Presidents—of both parties, no less—unless they possess and exhibit only the most extraordinary qualities that engender the kind of trust a President must have in an advisor and confidant.

It could certainly never be said that Senator Moynihan equivocated on an opinion for fear of controversy. If he spoke—or wrote, which he did often and well—you always knew it was a viewpoint born of a careful study of history and a keen eye on contemporary society. He believed that society could be influenced to change itself for the better through its leaders—indeed, that those in a position to leave such a mark are obliged to do so.

Daniel Patrick Moynihan was a Democrat, but he was less about party and more about policies that would build a better country for all Americans—regardless of whatever political stamp such initiatives might bear. As Jonathan Alter so pointedly observed in his column in tribute to Senator Moynihan, he ''consistently frustrated the foolishly consistent.''

In my own experience, I was privileged to work with him across the party aisle on a number of issues important to our region of the country, and also to men and women across the Nation. We worked together to try to strengthen and improve welfare reform in 1996, to enhance treatment under the National Breast and Cervical Cancer Early Detection Program for uninsured women, to bolster our Nation's transportation system, and to encourage private sector investment in bringing more advance Internet access to the people of rural America.

We also joined forces on numerous occasions to ensure that the Low-Income Home Energy Assistance Program was funded at levels sufficient to help those families in the cold and in need. And, together, we fought to ensure the Northeast States that were devastated by the historic ice storm of 1998 received the Federal assistance they required, and deserved.

Throughout his tenure, regardless of whether one agreed or disagreed on an individual issue, it could always be said that Senator Moynihan was a thoughtful, gentlemanly force for good. He had an influence on countless social policy initiatives over his tenure, offered his views for strengthening and protecting Social Security, and fought tirelessly on behalf of causes a diverse as public transportation and teaching hospitals.

Above all, he was never superficial, and he had the ability to see—and foresee—what others could not. Indeed, how fitting that a man of ideas would serve a nation founded on ideas. Senator Moynihan stood at the intersection of intellect, insight, and integrity, and in so doing left a lasting and positive impact on the people of the State of New York and the United States of America.

George Bernard Shaw said that ''Life is no brief candle to me—it is like a splendid torch which I have hold of for the moment and I want it to burn as brightly as possible before handing it over to the next generation.'' That is the credo by which Daniel Patrick Moynihan lived his life, and we are the beneficiaries of his extraordinary spirit.

IN HONOR OF RUTH BURNETT OF FAIRBANKS

Mr. STEVENS. Madam President, I rise today to bring to the Senate's attention the dedicated service of one of my employees and great friends, Ruth Burnett. Ruth runs my Fairbanks office and has been a fixture with her husband, Wally, in the Fairbanks community for almost 50 years. All of her children have worked in my Washington office at one time or another, but currently Ruth is the only Burnett on my staff.

April 19 is Ruth's birthday and one which commemorates a year that she will be happy to have behind her—as Queen Elizabeth once remarked, ''an annum horribulous.'' Last fall, Ruth was diagnosed with ovarian cancer, underwent surgery, and immediately began an aggressive treatment of chemotherapy. By her birthday next week she will have completed her chemotherapy protocol and will begin rebuilding her strength. Her son Shane and daughters Pam and Suzy will join Wally and Ruth in Fairbanks to celebrate her birthday.

I could go on about Ruth's courage, her ever-optimistic outlook on life, her faith, and her boundless energy, but I think an article written by her 10-year-old granddaughter Emily Combs captures Ruth quite well. Catherine and I and my entire staff who work with Ruth on a daily basis send her our warmest wishes for a happy birthday and the beginning of a great new year.

I know the Senate joins me in wishing Ruth and her family well on the occasion of her birthday and in wishing her a speedy recovery.

I ask unanimous consent to print a short story by Emily Combs.

There being no objection, the material was ordered to be printed in the RECORD, as follows;

THE INCREDIBLE JUMP

(By Emily Combs, September 19, 2002)

We looked ahead as we were peddling away when we saw a pretty steep mound of dirt. Surprisingly my grandma yelled excitedly, ''Let's jump it!'' I wanted to shout ''no,'' but no one can change grandma's mind once it's set. My grandma Ruth is amazing! She is sixty-eight years old, has brown hair, goes to church every Sunday and works for U.S. Senator Ted Stevens.

Apart from being a great athlete, my grandma looks fantastic. Her eyes are a brilliant blue, and have a sparkle to them when something exciting is going to happen. My grandma's hair is a walnut brown. Shed stands about five feet seven inches tall.

In addition, going to church is one of the biggest parts in my grandma's life. She goes to church every Sunday and is an elder at the church. Whenever they need help with a sermon, she's always willing to help as much

as possible. She helps collect the offerings, and when I am in Alaska, I help her.

After my grandma was mayor of Fairbanks, she became an assistant for U.S. Senator Ted Stevens. She runs his office in Fairbanks. She helps people in the community contact the government or Senator Stevens. If a person needs help concerning a problem with the government, my grandma will help them.

My grandma and I saw the jump coming closer. We were on the jump, then crash! I went off crooked into some bushes, but my grandma was still going straight. That does not surprise me because my grandma is so incredible. My grandma Ruth is very beautiful and never misses a day of church or work. I wish everyone had a great grandma.

WELCOMING OUR NEW DEPUTY SERGEANT AT ARMS

Mr. FRIST. Madam President, I rise today to welcome and introduce to my colleague, J. Keith Kennedy, as our new Deputy Sergeant at Arms. Keith is a true professional in every sense of the word, and a great choice to serve as Deputy Sergeant at Arms.

Keith first came to the Senate in 1972 as a legislative assistant to Senator Mark Hatfield. In 1977, Keith was tapped by Senator Hatfield to serve as a professional staff member on the Senate Select Committee on Indian Affairs. In 1979, he joined the staff of the Senate Committee on Appropriations, quickly rising to become staff director, and served with the committee for a remarkable tenure of 16 years.

In accepting the position of Deputy Sergeant at Arms, Keith has fulfilled his desire to return to public service, and we all will benefit greatly from his talent and commitment to this institution. He joins an already outstanding team in the Office of the Sergeant at Arms. In this first week alone, Keith has hit the ground running, and I know he will continue to accomplish great things.

To Keith and his fine family, please accept my heartfelt congratulations, and I look forward to working with you in the weeks and months to come. Thank you for your dedication to the Senate.

TRIBUTE TO MAURA LASATER

Mr. REID. Madam President, I would like to recognize Maura Lasater, the Cherry Blossom Princess selected to represent the State of Nevada in this year's National Cherry Blossom Festival in Washington, DC.

Maura has long been a part of the Greater Nevada community. As a friend and admirer of her family, I have watched Maura grow up to become a truly wonderful and vibrant young lady. She takes initiative to improve her community and, with her know-how, energy and common sense, she leaves a lasting impression on those around her. Her poise is particularly notable for such a young person. She is a bright light and joy to be around. I am so proud of her many achievements and know that her future is full of promise and possibilities.

Maura comes from a family with deep Nevada roots and a strong commitment to public service. Her mother, Jan Jones, was the successful and legendary mayor of Las Vegas for 8 years. Maura worked with her mother on her campaigns for Mayor, and now she continues her service to Nevada working for Congresswoman SHELLEY BERKLEY. Like her mom, Maura is a smart, focused, and spirited woman. She is a tremendous asset to Congresswoman BERKLEY's office as demonstrated by the extensive work she does directly with Nevadans. We in Nevada are lucky to have such a gifted and dedicated individual working on our behalf, and I am pleased to honor her as the Cherry Blossom Princess from Nevada in 2003.

CELEBRATING THE ANNIVERSARY OF THE CIVIL RIGHTS ACT OF 1968

Mr. SARBANES. Madam President, I rise today to join with my fellow Marylanders and all Americans in celebrating the 35th anniversary of the Civil Rights Act of 1968. On April 11, 1968, President Lyndon Johnson signed this historic act, one of several landmark pieces of legislation that helped ensure equal treatment for people of all races, and helped bring to life the original founding principles of our Nation.

In 1964, President Johnson signed the Civil Rights Act of 1964, which made segregation in public facilities and discrimination in employment illegal. This remarkable piece of legislation was followed up 4 years later with the Civil Rights Act of 1968, which contained the Fair Housing Act that prohibited discrimination in the sale, rental, and financing of housing.

This law helps to ensure that people of all races have opportunities to live where they choose. The housing pattern in the early 1960s was one of almost complete segregation. In 1967, 80 percent of all nonwhites living in metropolitan areas lived in the central city, while up to one-third of all new factories and stores were locating outside of the central city areas. Equal access to housing was seen not only as a basic right by legislators and advocates, but it was also seen as key to increased employment opportunities. In order for people of all racial groups to advance economically, they needed access to jobs, and housing near those jobs was being denied to African Americans and others in this country.

Unfortunately, 35 years after its passage, the Fair Housing Act is still needed because discrimination in housing continues. Too many minorities, disabled people, and families are unable to live where they choose because of discrimination. Each year, thousands of people turn to the Department for Housing and Urban Development and agencies around the country because they have been denied decent and safe housing based purely on their race, ethnicity, disability or familial status. As we celebrate the anniversary of the Fair Housing Act, an act that promised that we as a nation would work to ensure that all people had equal access to areas of opportunity, we must do more to act on that promise and make it a reality. The Fair Housing Act must be better enforced, so that people around the country understand that we take the act and its protections seriously.

I also want to remind people that, even after achieving the American dream of homeownership, we must remain vigilant. Each year, many homeowners, particularly minority homeowners, are stripped of the wealth and equity they have accumulated in their homes over many years by the unscrupulous practices of predatory lending. The Federal Government took a small step to guard against this abuse when it passed the Home Owners and Equity Protection Act in 1994. However, we need to do more, and I intend to press legislation to move this part of the civil rights agenda forward.

While we continue to make progress to ensure that people of all races are treated equally, we should also honor those great civil rights leaders who gave us their vision of equality. President Johnson signed the Civil Rights Act of 1968 just a week after Martin Luther King, Jr., was assassinated at a hotel in Memphis, TN, affirming that despite this Nation's great loss, the legacy of Dr. King would live on. We must continue to recognize and honor the remarkable achievements and the ultimate sacrifice of Dr. King.

In order to remember and preserve Dr. King's legacy, the Martin Luther King, Jr., Memorial Project Foundation is in the process of planning and building a memorial on The Mall to Dr. King. The process has been ongoing for several years, and I have recently offered legislation that would extend the legislative authority for the memorial by an additional 3 years. This legislation would give the foundation the extra time that it needs to complete this important project. Visitors will be able to come to the memorial from every part of this country, and indeed the world, to be inspired anew by Dr. King's words and deeds and the extraordinary story of his life.

The civil rights movement inspired by Dr. King and others changed the lives of all Americans for the better. However, we can do more to live up to the expectations that he and others set for our Nation. In celebrating the anniversary of the Civil Rights Act of 1968, we are reminded of how far we have come, and how far we have yet to go.

LEGISLATIVE HISTORY OF TITLE IX OF THE SARBANES-OXLEY ACT OF 2002

Mr. BIDEN. Madam President, I rise today to offer the following section-by-section analysis of Title IX of the ''Sarbanes-Oxley Act of 2002,'' P.L. 107–204, of which I was the primary author along with my good friend from Utah, Senator HATCH. Title IX was derived

from S. 2717, the ''White-Collar Crime Penalty Enhancement Act of 2002,'' which I introduced with Senator HATCH on July 10, 2002. That same day, Senator HATCH and I offered the text of S. 2717 as a floor amendment to the Public Company Accounting Reform and Investment Protection Act of 2002, S. 2673. Our amendment was unanimously adopted by the Senate on July 10, 2002, by a 96–0 vote. S. 2673 was overwhelmingly approved, as amended with the inclusion of S. 2717, on July 15, 2002, by a vote of 97–0. S. 2673 then went to a House-Senate conference. The Biden-Hatch amendment was retained in the final conference report as Title IX, and in substantially identical form to that in S. 2673. The conference report, the Sarbanes-Oxley Act, H.R. 3763, was passed by the Senate on July 25, 2002, by a 99–0 vote. The President signed the Sarbanes-Oxley Act into law on July 30, 2002.

As I mentioned, Title IX of the Sarbanes-Oxley Act, entitled the ''White-Collar Crime Penalty Enhancement Act of 2002,'' closely mirrors the original S. 2717. In order to provide guidance in the legal interpretation of these provisions, I have compiled the following analysis and discussion, which are intended to augment, and not supplant, the legislative history and explanatory statements that accompanied passage of H.R. 3763. This legislative history is intended also to supplement my remarks at the time of the Sarbanes-Oxley Act's final passage. See S7426–S7425 (July 26, 2002). I ask unanimous consent that this section-by-section analysis be included in the CONGRESSIONAL RECORD as part of the official legislative history of these provisions.

The content of Title IX was developed partly in response to a series of white-collar crime hearings I held in my capacity as Chairman of the Senate Judiciary Subcommittee on Crime and Drugs. Through those hearings, the subcommittee heard from a wide range of witnesses with expertise in both corporate law and white-collar crime—including current and former high-ranking officials from the United States Securities and Exchange Commission (SEC), the United States Departments of Justice and Treasury, and the Federal Reserve; business and law professors; corporate practitioners; as well as victims of corporate fraud.

The first hearing, held on June 19, 2002, focused on the disparity in sentences between white-collar offenses, including pension fraud, and federal ''street crimes'' like car theft. Specifically, the hearing explored four broad areas: it focused on the human consequences of white-collar crimes; defined and quantified the problem, including an evaluation of the use of the criminal sanction against white-collar criminals and the severity of penalties typically imposed; explored the reasons that might explain the lighter sentences that white-collar offenders often receive; and discussed recent amendments to the federal sentencing guidelines that purport to address the historic, disparate treatment of economic crimes. The first-panel witnesses included Charles Prestwood, a retiree who lost his retirement savings in the bankruptcy of the Enron Corporation; Janice Farmer, a retiree who similarly lost her retirement savings in the Enron bankruptcy; and Howard Deputy, a former employee of the Metachem Company in Delaware who was at risk of losing a portion of his pension in Metachem's bankruptcy. The second-panel witnesses included James B. Comey, United States Attorney for the Southern District of New York; Glen B. Gainer, Chairman of the Board of Directors of the National White Collar Crime Center and West Virginia State Auditor; Bradley Skolnik, Chief of the Enforcement Section of the North American Securities Administrators Association and Securities Commissioner for the State of Indiana; Frank O. Bowman, Associate Law Professor at the University of Indiana School of Law; and Paul Rosenzweig, Senior Legal Research Fellow at the Heritage Foundation.

The second hearing, held on July 10, 2002, also addressed the adequacy of criminal penalties for white-collar crimes and evaluated the use of the criminal sanction to deter wrongdoing and encourage corporate responsibility. We were particularly interested in learning whether the current federal criminal law, as opposed to civil enforcement mechanisms, was sufficient to address the range of corporate scandals that were then unfolding. Specifically, the hearing addressed the issue through the lense of the recent accounting scandals—exploring the pattern of corporate irresponsibility and the cultural and economic conditions that made the scandals possible; the impact of the scandals on investor confidence and economic health; and the need for investor protection and anti-fraud legislation which includes stiffened criminal penalties. The first-panel witnesses included Michael Chertoff, Assistant Attorney General for the Criminal Division at the United States Department of Justice; and William W. Mercer, United States Attorney for the District of Montana and head of the United States Attorneys' White-Collar Crime Working Group. The second-panel witnesses included John C. Coffee, Jr., Adolf A. Berle Professor of Law at Columbia University School of Law; Thomas Donaldson, Mark O. Winkelman Professor at the Wharton School of Business at the University of Pennsylvania; Charles M. Elson, Edgar S. Woolard, Jr. Chair at the Center for Corporate Governance at the University of Delaware; George Terwilliger, former Deputy Attorney General at the United States Department of Justice; and Tom Devine, Legal Director at the Government Accountability Project.

The third hearing, held on July 24, 2002, continued the discussion initiated in the earlier hearings and featured three former, high-ranking officials in the Executive Branch who commented on a host of suggested reforms—including S. 2717 which, by that time, had been amended to the Senate precursor to the Sarbanes-Oxley Act (the Public Company Accounting Reform and Investment Protection Act of 2002, S. 2673). The witnesses included G. William Miller, former Secretary of the Treasury under President Carter and former Chairman of the Federal Reserve Board; Roderick Hills, former Chairman of the Securities and Exchange Commission under President Ford; and James Doty, former General Counsel to the Securities and Exchange Commission and head of the corporate and securities practice at Baker Botts LLP.

On a final note, the legislation was introduced and subsequently enacted against the backdrop of the Sentencing Commission's ongoing efforts in the area of economic crime. We are aware of the ''Economic Crime Package,'' which was approved by the Commission in April 2001 and went into effect in November 2001. These amendments to the federal sentencing guidelines consolidated the guidelines for theft, property destruction, and fraud offenses; revised the definition of ''loss,'' which largely informs the range of sentencing available for an offense; increased penalties for offenses involving moderate and high-dollar losses and reduced penalties on some lower-level offenses; and revised the loss table for tax offenses to provide for higher penalty levels for offenses involving moderate and high tax losses. Title IX was developed and enacted with full awareness of these new amendments to the guidelines.

I ask unanimous consent that the section-by-section analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS AND DISCUSSION OF THE ''WHITE-COLLAR CRIME PENALTY ENHANCEMENTS ACT OF 2002'' (TITLE IX OF H.R. 3763)

Section 901. Short Title

This section designates this title of the Act as the ''White-Collar Crime Penalty Enhancement Act of 2002.''

Section 902. Attempts and Conspiracies To Commit Criminal Fraud Offenses

This section adds a new provision to the United States Code (18 U.S.C. §1349), which indicates that any person who attempts or conspires to commit a fraud offense under Chapter 63 of Title 18 (in other words, 18 U.S.C. §§1341–1348) shall face the same penalties as those provided for in the predicate, or underlying, offense that was the object of the attempt or the conspiracy. (While 18 U.S.C. §2 currently provides for the same penalties for aiding and abetting offenses as the predicate crimes, prosecution under that section requires the government to prove some affirmative act by the defendant. In contrast, prosecution under Section 902 requires no affirmative act, but only an agreement to commit a future crime, as is the case with 18 U.S.C. §371.)

During hearings by the Judiciary Subcommittee on Crime and Drugs on the ''penalty gap'' between white-collar offenses and

other federal crimes, we observed that defendants charged with conspiracy pursuant to 18 U.S.C. §371 were afforded a potential windfall in terms of their sentence, vis-a-vis their co-defendants who were convicted of the actual offenses. That windfall resulted because the charge of conspiracy under Section 371 only subjects a convicted individual to a maximum imprisonment term of 5 years. In contrast, certain fraud offenses in Chapter 63 carry maximum penalties of up to 30 years imprisonment, e.g., 18 U.S.C. §1344 (imposing up to 30 years imprisonment for bank fraud). In the case of a particularly egregious bank fraud case, then, one co-defendant could receive a 30–year sentence while an equally culpable co-conspirator would receive only a 5–year sentence.

Congress responded by creating a new Section 1349 for defendants who attempt or conspire to commit a financial fraud under Chapter 63 of Title 18. The Justice Department may now elect to charge a fraud conspirator under this new section, rather than pursuant to 18 U.S.C. §371, thereby preserving the same maximum penalties. In enacting this new section, we harmonize the penalties for financial fraud conspiracy with those of narcotics offenses. See 21 U.S.C. §846 (''[a]ny person who attempts or conspires to commit any [narcotics] offense defined in this subchapter shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.'')

Section 903. Criminal Penalties for Mail and Wire Fraud

This section increases the potential maximum term of imprisonment available upon conviction for mail fraud (18 U.S.C. §1341) or wire fraud (18 U.S.C. §1343) from 5 years to 20 years. Fraud affecting financial institutions in both Sections 1341 and 1343 of Title 18 is unaffected by this section, so the potential maximum term of imprisonment for this offense remains 30 years.

By raising the criminal penalties for Sections 1341 and 1343, we intended to harmonize the penalties for mail and wire fraud with the penalties for other serious financial crimes. See, e.g., 18 U.S.C. §1348 (25–year maximum penalty for securities fraud); 18 U.S.C. §1956(a)(3)(A) (20–year maximum penalty for money laundering); 18 U.S.C. 1962 (20–year maximum penalty for racketeering). In addition, we intended to ensure that the penalty structure for these offenses was sufficiently stiff to provide a real deterrent effect. As support for that aim, the Subcommittee on Crime and Drugs heard testimony from several witnesses who insisted that (1) these federal penalties should be toughened; and (2) in order to deter misconduct, offenders should be subject to some amount of actual incarceration.

For example, the Honorable James B. Comey, Jr., the United States Attorney for the Southern District of New York, observed that ''[w]hite collar criminals have broken serious laws, done grave harm to real people . . . [and] should be subject to the same serious treatment that we accord all serious crimes: substantial periods of incarceration. While we have made significant progress on some issues in recent years, especially in improving the applicable sentencing guidelines, we believe that current federal penalties for white collar offenses should be toughened.'' Testimony of Comey before the Senate Judiciary Subcommittee on Crime and Drugs, June 19, 2002, p. 2. He continued: ''[E]nforcement can be undermined when criminals perceive the risk of incarceration as minimal and view fines and probation merely as a cost of doing their criminal business. We believe that if it is unmistakable that the automatic consequence for one who commits a significant white collar offense is prison, then many will be deterred. . . . [White collar criminals] commit their crimes not in a fit of passion, but with cold, careful calculation. Accordingly, they are the most rational offenders and are more likely than most to weigh the risks of possible courses of action against the anticipated rewards of criminal behavior.'' Testimony of Comey before the Senate Judiciary Subcommittee on Crime and Drugs, June 19, 2002, p. 4.

The Honorable Michael Chertoff, Assistant Attorney General for the Criminal Division at the United States Department of Justice, echoed this sentiment: ''We believe that strong enforcement and tough penalties are especially important in the context of white collar crimes, because business criminals act with calculation rather than in a fit of anger or compulsion. Because white collar criminals act more rationally than most other criminals, they can more easily be deterred. In our experience, one thing is crystal clear: businessmen and women want to avoid jail at any cost. If their calculus includes a reasonable likelihood that they will be caught, and if caught, a reasonable likelihood that they will go to jail rather than get probation, home detention, or some other alternative to incarceration,' they will be much less willing to roll the dice and commit a fraud.'' Testimony of Chertoff before the Senate Judiciary Subcommittee on Crime and Drugs, July 10, 2002, p. 3; see also Testimony of G. William Miller, former Secretary of the Treasury and former Chairman of the Federal Reserve Board, before the Senate Judiciary Subcommittee on Crime and Drugs, July 24, 2002, p. 3–4 (''[T]he greed that drives the recent rash of alleged corporate wrongdoing is fostered by the criminal's belief that the rewards are great and the possibility of more than nominal punishment is low. For the corporate wrongdoer the deterrent is only likely to be effective if there is a high likelihood of detection and a high probability of serious punishment. The most powerful deterrent is the threat of jail time. The prospect of substantial monetary penalties also can affect behavior.''); Testimony of Bradley Skolnik, Securities Commissioner of the State of Indiana and Chairman of the Enforcement Division of the North American Securities Administrators Association, before the Senate Judiciary Subcommittee on Crime and Drugs, June 19, 2002, p. 2, 3 (''Investor education is an effective crime prevention tool but the strongest deterrent to crime, I believe is criminal prosecution and prison time. . . . [F]rom my perspective as a state securities regulator, white-collar criminals who commit securities fraud deserve prison time just like thieves, muggers and murderers. . . . Someone steals your car, they go to prison; some con artist steals the money your parents needed for retirement, they get fined. That's just not right.'') ''Jail time performs two functions,'' Chertoff explained. ''It holds white collar criminals accountable for their past misdeeds, and it prevents future misbehavior by those executives who might toy with the idea of beating the system.'' Testimony of Chertoff before the Senate Judiciary Subcommittee on Crime and Drugs, July 10, 2002, p. 5.

Section 904. Criminal Penalties for Violations of the Employee Retirement Income Security Act of 1974

This section increases the maximum criminal penalties for a willful violation of the reporting and disclosure provisions of the Employee Retirement Income Security Act (ERISA), Title I, subtitle B, part 1, or any regulation or order issued thereunder. Section 904 increases the maximum fine for an individual defendant convicted under 29 U.S.C. §1131 from $5,000 to $100,000, and the maximum term of imprisonment from 1 year to 10 years. The increased maximum term of imprisonment converts the offense from a misdemeanor to a felony. In addition, this section increases the maximum fine for a convicted organizational defendant from $100,000 to $500,000.

ERISA imposes on pension managers a number of reporting and disclosure requirements regarding the administration of their pension plans. Among other things, ERISA requires the administrator of a pension plan to notify the United States Department of Labor and the plan's participants and beneficiaries of any material modifications in the terms of the pension plan. It also creates a fiduciary relationship between the pension managers and the pension plan beneficiaries. Criminal penalties apply for violations of Part 1 of ERISA, 29 U.S.C. §1131, which is designed, among other things, to do the following: (1) require the disclosure of significant information about employee benefit plans and all transactions engaged in by those who control the plans; (2) provide specific data to plan participants and beneficiaries about the rights and benefits to which they are entitled and the circumstances that may result in a loss of those rights and benefits; and (3) set forth the responsibilities and proscriptions applicable to persons occupying a fiduciary relationship to employee benefit plans. 29 U.S.C. §§1021–1031.

Hearings by the Judiciary Subcommittee on Crime and Drugs included a discussion of the penalty scheme under ERISA. Section 1131 of ERISA only made it a criminal misdemeanor ''willfully'' to violate Part 1 of ERISA, 29 U.S.C. §1131, even though the potential harm flowing from an ERISA violation could be enormous. A criminal violation of Part 1 of ERISA could occur, for example, where a corporation's pension administrator learns of information relating to the company's financial health which, if not disclosed, could result in a loss of the employees' rights and benefits under the corporation's pension. (A recent study by the Congressional Research Service of the Enron Corporation collapse concluded that one criminal provision which might be implicated is Section 1131 of ERISA. See CRS Report for Congress, ''Possible Criminal Provisions Which May Be Implicated in the Events Surrounding the Collapse of the Enron Corporation,'' RS21177 (March 25, 2002)). In enacting Section 904, Congress concluded that the disproportionately low ERISA penalty constituted one of the ''penalty gaps'' between white-collar offenses and other federal crimes. For example, a defendant convicted of interstate auto theft is subject to up to 10 years in prison, regardless of the value of the stolen automobile. 18 U.S.C. §2312. In contrast, a defendant who violates ERISA—but no other federal fraud statute—was only subject to a maximum penalty of 1 year in prison, regardless of the value of the loss to an employee's pension.

While a defendant who violates the criminal provisions of ERISA may also violate another federal felony statute with higher penalties, that will not always be the case. Accordingly, the intention of this provision is to provide federal prosecutors with an appropriate felony charge to combat willful criminal conduct which devastates employees' pension holdings. The United States Sentencing Commission recognized that there are instances when an ERISA criminal violation occurs in the absence of any other federal criminal offense. The United States Sentencing Guideline provision for the ERISA criminal violation is USSG §2E5.3, entitled ''False Statements and Concealment of Facts in Relation to Documents Required by the Employee Retirement Income Security

Act.'' The background notes to §2E5.3 provide that ''this section covers the falsification of documents or records relating to a benefit plan covered by ERISA.'' The background note to §2E5.3 recognizes that while ERISA violations ''sometimes occur in connection'' with other federal offenses, they do not always thus occur. The base offense level under §2E5.3 for a ''stand-alone'' ERISA violation, absent any other violation, is only 6.

If the ERISA criminal offense is accompanied by another criminal violation, however, the guidelines direct the application of USSG §2B1.1, which addresses fraud, theft and other white-collar offenses (which has a base offense level of 6, but may increase to a level of 32 depending on the monetary value of the loss). Thus, under prior law, if a defendant violated both ERISA and the mail fraud statute, §2B1.1 would apply—not §2E5.3—and the defendant's sentence would be calculated with the loss calculations of the guidelines, and apply the higher felony maximum penalties of the mail fraud statute.

In contrast, if the defendant were only convicted of an ERISA criminal violation, the sentencing court would be limited by the statutory cap in 29 U.S.C. §1131 and the base offense level cap of §2E5.3. Accordingly, given the relative potential for devastating economic loss to pensioners who are victims of an ERISA criminal violation, it is entirely appropriate for Congress to close the ''penalty gap'' between ERISA and other federal statutes used to combat securities fraud. Pursuant to Section 905 of the Sarbanes-Oxley Act, Congress expects the Sentencing Commission to examine §2E5.3 of the Sentencing Guidelines and make any appropriate modifications given the enactment of Section 904.

Section 905. Amendment to Sentencing Guidelines Relating to Certain White-Collar Offenses

This section directs the United States Sentencing Commission, within 180 days of enactment of the Sarbanes-Oxley Act, to review and, as appropriate, to amend the applicable sentencing guidelines and related policy statements. Section 905(b) directs the Commission, among other things, to ensure that the guidelines and policy statements reflect the seriousness of the offenses and the statutory increases in penalties set forth in the Act, the growing incidence of such fraud offenses, and the need to modify the guidelines and policy statements to deter, prevent, and punish such offenses.

In passing the Sarbanes-Oxley Act, and the criminal and sentencing provisions in particular, Congress was aware of ongoing efforts by the Sentencing Commission to consolidate certain economic crimes, as achieved through the ''Economic Crime Package,'' and to study the effects of that consolidation. Recognizing, however, that the length of an offender's sentence is determined both by the operation of the sentencing guidelines and by the strength of the underlying statute, cf. Testimony of Paul Rosenzweig, Senior Legal Research Fellow at the Heritage Foundation, before the Senate Judiciary Subcommittee on Crime and Drugs, June 19, 2002, p.6 (noting that disparities in penalties are principally the product of actions of Congress, i.e., the criminal statutes passed by Congress), we amended the federal criminal code to increase penalties significantly for certain offenses (as discussed above). Our expectation is that, similarly, the federal sentencing guidelines will be reviewed and, where appropriate, modified accordingly.

Although the Commission has recently considered the severity of sentences for these economic crimes, we believe that further study is warranted—as did several of the witnesses who testified before the Subcommittee on Crime and Drugs. This is particularly so, given the new and increased penalties for white-collar offenses established by Title IX. For instance, the Honorable Glen B. Gainer, III, State Auditor of the State of West Virginia and Chairman of the National White Collar Crime Center, a nonprofit organization that provides support services to state and local law enforcement agencies and other organizations involved in the prevention, investigation and prosecution of economic crimes, noted: ''In terms of sentence length, research conducted in the early 90's clearly demonstrates the disparity between [white-collar and so-called 'street' crime offenders. Those incarcerated for losses in excess of $100,000 or more as a result of the savings and loan scandals received an average of 36.4 months in prison. During the same time period, those nonviolent federal offenders who committed burglary got 55.6 months, car theft received 38 months, and first-time drug dealing averaged 65 months. While some of this disparity may have been corrected by revisions to the federal sentencing policy for economic crimes, disparate sentencing can still be seen between 'white-collar' cases involving substantial monetary loss, and other crimes with similar financial impact.'' Testimony of Gainer before the Senate Judiciary Subcommittee on Crime and Drugs, June 19, 2002, p. 4.

Another witness, also using data that preceded adoption of the ''Economic Crime Package,'' cited statistics that similarly demonstrated a disparity in sentencing between traditional white-collar and other crimes: ''[D]efendants convicted of larceny, embezzlement, fraud, and counterfeiting who were sentenced to federal prison received average (mean) sentences of 15.6 months, 9.9 months, 18 months, and 17 months respectively. By contrast, robbery defendants received 110.6 months, drug defendants 75.3 months, and firearms offenders 64.1 months. Even the average immigration sentence was 27.8 months, ten months longer than the average fraud penalty. Moreover, federal economic crime defendants receive sentences of probation at dramatically higher rates than virtually any other class of defendant. More than one-half of all larceny defendants and one-third of all fraud defendants receive probation.'' Testimony of Frank O. Bowman, Associate Law Professor at the University of Indiana School of Law, before the Senate Judiciary Subcommittee on Crime and Drugs, June 19, 2002, p. 2. Similarly, Rosenzweig observed: ''An overwhelming percentage of those who were sentenced for traditional crimes received sentences requiring terms of imprisonment. For example, 94.2 percent of those convicted of drug trafficking were sentenced to prison. 97 percent of those convicted for robbery were imprisoned, as were 93 percent of those convicted of arson, and 97.4 percent of those convicted of murder. By contrast only 53.5 percent of those convicted of fraud and 48.1 percent of those convicted of embezzlement were sentenced to prison.'' Testimony of Rosenzweig before the Senate Judiciary Subcommittee on Crime and Drugs, June 19, 2002, p. 4.

While there was not a consensus regarding the reasons for, or desirability of, such a penalty disparity between similarly egregious infractions, many of the witnesses suggested that its existence worked to undermine the integrity of the criminal justice system. For example, Chairman Gainer concluded: ''The conclusion we can safely draw from this body of information is that white-collar criminals, particularly those involved in large, complex frauds that impact hundreds, if not thousands of victims, do not receive punishment that is proportionate to the harm that they cause.'' Testimony of Gainer before the Senate Judiciary Subcommittee on Crime and Drugs, June 19, 2002, p. 5.

Finally, in its efforts to comply with the terms of this title, we hope that the Sentencing Commission will take the opportunity to review and advise Congress on a disturbing development cited by the two witnesses from the Justice Department, Assistant Attorney General Chertoff and United States Attorney Comey—namely, an overwillingness in some jurisdictions to depart downward from the mandated sentencing guideline range for certain white-collar offenses. Justifying the need to increase penalties for certain white collar offenses, Chertoff explained: ''Not only are the maximum statutory penalties for fraud and other white collar-type offenses substantially less than those for violent offenders or drug cases, but it appears that judges in some jurisdictions are overly willing to depart downward from the mandated federal sentencing guideline range to sentence such offenders to minimal (if any) jail time, home detention, or even probation.'' Testimony of Chertoff before the Senate Judiciary Subcommittee on Crime and Drugs, July 10, 2002, p. 5.

Comey's comments mirrored this concern: ''[I]n some districts, non-substantial assistance downward departures are anything but infrequent (9,286 non-substantial assistance downward departures were made in 2000). . . . While available analyses do not detail the bases of these departures in white collar cases, a number of district judges appear to believe that white collar defendants should not be incarcerated in order to facilitate payment of restitution and fines. Of course, this is at odds with the view that incarceration can deter such crime in the first instance. . . . [F]or a variety of reasons, federal judges are hesitant to incarcerate white collar defendants. If past is prologue, even though the economic crime amendments of 2001 increased penalties for these crimes, departures will be used to undercut the purposes of the new provisions.'' Testimony of Comey before the Senate Judiciary Subcommittee on Crime and Drugs, June 19, 2002, p. 17.

By citing this and other testimony, we underscore Congress' belief that a ''penalty gap'' has existed between white-collar offenses and other offenses. Congress in particular is concerned about base offense levels which may be too low. The increased sentences, while meant to punish the most egregious offenders more severely, are also intended to raise sentences at the lower end of the sentencing guidelines. While Congress acknowledges that the Sentencing Commission's recent amendments are a step in the right direction, the Commission is again directed to consider closely the testimony adduced at the hearings by the Judiciary Subcommittee on Crime and Drugs respecting the ongoing ''penalty gap'' between white-collar and other offenses. To the extent that the ''penalty gap'' existed, in part, by virtue of higher sentences for narcotics offenses, for example, Congress responded by increasing sentences for certain white-collar offenses. Accordingly, we ask the Commission to consider the issues raised herein; determine if adjustments are warranted in light of the enhanced penalty provisions contained in this title; and make recommendations accordingly.

Section 906. Corporate Responsibility for Financial Reports

Summary. This section adds a new provision to the United States Code (18 U.S.C.

§1350), which requires the chief executive officer and chief financial officer (or their equivalent) of an issuer, foreign or domestic, to certify the accuracy of periodic financial statements filed by the issuer with the Securities and Exchange Commission under 15 U.S.C. §§78m(a) or 78o(d). (An ''issuer'' is defined, under Section 2(a)(7) of the Act, to mean an entity whose securities are registered under Section 12 of the Securities and Exchange Act of 1934 or that is required to file reports under Section 15(d) of that Act.) The chief executive and financial officers must certify that the periodic financial statement complies with certain specified requirements of the Securities and Exchange Act and that it ''fairly presents, in all material respects, the financial condition and results of operations of the issuer.'' Pursuant to Section 1350(c)(1), anyone who makes such a certification ''knowing'' that the report accompanying the certifying statement does not meet the statutory requirements would, upon conviction, face up to $1 million in fines, up to 10 years in prison, or both. Pursuant to Section 1350(c)(2), anyone who ''willfully'' certifies compliance ''knowing'' that the periodic report accompanying the statement does not comport with the requirements of 18 U.S.C. §1350 would face up to $5 million in fines, up to 20 years in prison, or both.

Financial Reports. The backdrop to Section 906 is the long-standing requirement under Section 13(a) and Section 15(d) of the Securities and Exchange Act (15 U.S.C. §§78m(a) or 78o(d)) that publicly-traded companies file reports with the SEC regarding the financial well-being of the corporation. See 15 U.S.C. §78m(a) (''Every issuer of a security . . . shall file with the Commission . . . such information and documents . . . as the Commission shall require to keep reasonably current the information and documents required to be included in or filed with an application or registration statement [and] such annual reports . . . as the Commission may prescribe.'') Pursuant to this provision, the SEC requires publicly-traded companies to file numerous reports (e.g., Forms 10–K, 20–F, 40–F, 10–Q, 8–K, 6–K), all intended to provide both the Commission and the investing public with information regarding the financial condition of the corporation. Willful failure to file these periodic reports, or the making of materially false statements therein, constitutes a felony. See 15 U.S.C. §78ff (''Any person who willfully violates any provision of this chapter . . . or any person who willfully and knowingly makes . . . [any] false or misleading [statement] with respect to any material fact, shall upon conviction be fined not more than $1,000,000, or imprisoned not more than 10 years, or both[.]'') (We note that, in contrast to the ''willful'' standard we apply in Section 906, courts have ascribed a different meaning to ''willful'' violations of the 1934 Act, e.g., *United States* v. *Dixon*, 536 F.2d 1388 (2d Cir. 1976) (determining that an act is done ''willfully'' if it is done intentionally and deliberately and not the result of innocent mistake, negligence or inadvertence; a specific intent to disregard or disobey is not required). As explained more fully below, Congress uses ''willful'' in Section 906 to create a specific intent crime, not the general intent crime which courts have sometimes used in interpreting the penalty provisions of the 1934 Act.) While defendants have been prosecuted under 15 U.S.C. §§78m and 78ff for filing false financial reports with the SEC, see, e.g., *United States* v. *Colasurdo*, 453 F.2d 585 (2d Cir. 1971), cert. denied. 406 U.S. 917 (1972), the law has never required a company's top corporate official to certify to the accuracy of the company's financial reports. Section 906 closes this loophole by imposing this responsibility upon the CEO and CFO (or their equivalents) of all publicly-traded corporations. Significantly, it does not mandate any additional reporting requirements, but only applies to those companies who are independently required, by Sections 13(a) and 15(d) of the Securities and Exchange Act of 1934, to certify the accuracy of those reports. As noted above, the law has always required that those reports be materially accurate.

Executive Certification. The notion of requiring an organization's primary or senior executive to certify a statement submitted to the government, on threat of possible criminal liability, is hardly novel. For example, Section 911(a)(1) of the National Defense Authorization Act for Fiscal Year 1986 requires a senior executive of a defense contractor to certify, to the best of his or her ''knowledge and belief,'' that all costs included in a proposal for settlement of indirect costs are allowable under the cost principles of the Federal Acquisition Regulation and its supplements. 10 U.S.C. §2324(h); 48 C.F.R. §52.242–4. Like Section 906 of the Sarbanes-Oxley Act, the regulation implementing the certification requirement contained in Section 911(a)(1) mandates that the certificate be executed by a company's senior executives, who face potential criminal liability if the representations contained in the certification are shown to be inaccurate. See 10 U.S.C. §2324(i).

Such a certification of accuracy is especially important in the securities context, since the robustness of financial markets and the success of national securities regulation are based on the full disclosure of a company's financial state. During the summer of 2002, as daily reports of alleged CEO criminal wrongdoing filled the news, congressional testimony from finance experts touted the critical need to impose responsibility upon top corporate officials in ensuring accuracy in financial reports. For example, Federal Reserve Chairman Alan Greenspan testified before the Senate Committee on Banking, Housing and Urban Affairs on July 16, 2002, the day after the Senate passed S. 2673. Much of his testimony focused on (1) the need for top corporate officials to report accurately the financial health of their companies; and (2) the need for criminal penalties for those who knowingly fail to do so. Chairman Greenspan said the following: ''A CEO must . . . bear the responsibility to accurately report the resulting condition of the corporation to shareholders and potential investors. Unless such responsibilities are enforced with very stiff penalties for noncompliance, as many now recommend, our accounting systems and other elements of corporate governance will function in a less than optimum manner. . . . Already existing statutes, of course, prohibit corporate fraud and misrepresentation. But even a small increase in the likelihood of large, possibly criminal penalties for egregious behavior of CEOs can have profoundly important effects on all aspects of corporate governance because the fulcrum of governance is the chief executive officer . . . . And I don't wish to make a generalized statement, but I suspect that if the CEO issue [i.e., accurate reporting of the financial health of a company] were fully and completely resolved—which it never will be, because we're dealing with human beings—I think all the rest of the problems will just disappear . . . . [I]f you do not get the CEO changing in the way that particular position functions, a goodly part of the work of the Senate is not going to be very effective . . . . [W]hat you can do is to try to create an environment and a legal structure which very significantly penalizes malfeasance.''

Likewise, several witnesses before the Judiciary Subcommittee on Crime and Drugs echoed the testimony of Chairman Greenspan, suggesting that the best way to protect investors from fraud is to require corporate executives at publicly-traded companies to disclose detailed information about their companies' financial health. For example, Professor Thomas Donaldson, Mark O. Winkelman Professor at the Wharton School of Business at the University of Pennsylvania, commented: ''The importance of accurate information in fueling efficient economic activity is well substantiated. Rational choice demands accurate information. When companies fail to provide investors with accurate information, investors make worse decisions and markets, in turn, become less efficient.'' Testimony of Donaldson before the Senate Judiciary Subcommittee on Crime and Drugs, July 10, 2002, p. 4. Relatedly, he noted: ''Crony capitalism and the lack of transparency were rightly implicated in the Asian melt down of 1997–1998. Without transparency and reliable numbers about the economic health of Asian companies, investors were stymied from responding rationally to the crisis. They were unable to dump their investments in poorer companies and hold their investments in better companies because they simply couldn't trust the numbers. In the ensuing crisis, they dumped everything with pernicious consequences. Today, we appear to be experiencing a transparency discount in the American equity markets. Investors pay less because they believe that they know less.'' See id. at 2; see also Testimony of Devine before the Senate Judiciary Subcommittee on Crime and Drugs, July 10, 2002, p. 2 (''Two long-accepted truths are that secrecy is the breeding ground for corruption, and sunlight is the best disinfectant.'')

Thus, Section 906 simply seeks to facilitate full disclosure and ensure the accuracy of financial reports by requiring corporate executives' personal stamp of approval. As Secretary Miller stated plainly but poignantly, ''[i]f the CEO is required to certify the reports he will be hard pressed later to say he thought the CFO had everything in apple pie shape. So the certificate becomes the hook that establishes accountability.'' Testimony of Miller before the Senate Judiciary Subcommittee on Crime and Drugs, July 24, 2002, p. 5.

State of Mind Requirement for Criminal Liability. Section 906 provides for a two-tiered penalty scheme for corporate officials who certify financial statements which they know to be false. It should be kept in mind that both penalties only apply to corporate executives who certify statements ''knowing that the periodic report accompanying the statement does not comport with all the requirements set forth in this section.''

While it is common for drafters of legislation to use the mens rea terms ''knowing'' and ''willful'' interchangeably, there are some criminal statutes which distinguish between them. See, e.g., 18 U.S.C. §35 (knowingly conveying false information triggers civil liability, while willfully conveying false information is a felony). When these two mens rea requirements are used in setting forth graduated penalties for the same predicate conduct, courts construe ''knowing'' to embody a general intent standard and ''willful'' to embody a specific intent standard. As such, knowing conduct is distinct from, and less intentional than, willful conduct. See *Bryan* v. *United States*, 524 U.S. 184, 193 (1998) (noting that ''more is required'' for a finding of ''willful'' misconduct; ''[t]he jury must find that the defendant acted with an evil-meaning mind, that is to say, that he acted with knowledge that his conduct was unlawful'').

''Knowing.'' Section 906 establishes 18 U.S.C. §1350(c)(1), making it a 10-year felony

for a corporate official to certify financial statements ''knowing'' that they contain false or misleading information. As explained above, ''knowing'' as used here is meant to embody a general intent standard. It refers to knowledge of the facts constituting the offense, as distinguished from knowledge of the law. See *Bryan*, 524 U.S. at 192 (quoting Justice Jackson). In other words, to certify financial statements ''knowing'' them to be false simply means to certify the financial statements intentionally, voluntarily and with an awareness of their duplicity, rather than by mistake or accident. Knowledge of the law is not required, nor is a willful and intentional desire to evade the law's requirements. Stated differently, Section 1350(c)(1) imposes criminal liability for corporate officials who certify a financial statement ''knowing'' that it fails to ''fairly present, in all material respect, the financial condition and the operations of the issuer.'' It is not required that the corporate official intended to violate the statute (or even knew of the statute's certification requirements). Rather, the government must only prove that the corporate officer knew that the financial statements were materially misleading or inaccurate.

That is not to say, however, that certifying executives can evade liability by avoiding acquiring knowledge. We agree with the sentiments of Secretary Miller, who noted that ''[t]he certifying officer should be judged upon whether he has been diligent, exercised due care, established procedures for verification, made adequate investigations, and provided appropriate supervision.'' Testimony of Miller before the Senate Judiciary Subcommittee on Crime and Drugs, July 24, 2002, p. 5. It is our intent that courts impose a duty on these individuals to be reasonably informed of the material facts necessary to prepare financial information for submission to the SEC and for dissemination to the public. This position is consistent with well-established law that conscious avoidance, or a deliberate attempt to avoid knowledge of the crime, will not be a defense to the criminal penalties contained in a statute. See, e.g., *United States* v. *de Francisco-Lopez*, 939 F.2d 1405, 1409 (10th Cir. 1991) (''[T]he act of avoidance of knowledge of particular facts may itself circumstantially show that the avoidance was motivated by sufficient guilty knowledge to satisfy the . . . 'knowing' element of the crime.''); *United States* v. *Hanlon*, 548 F.2d 1096, 1101 (2d Cir. 1977) (''It is settled law that a finding of guilty knowledge may not be avoided by a showing that the defendant closed his eyes to what was going on about him; 'see no evil' is not a maxim in which the criminal defendant should take any comfort.''); *United States* v. *Jewel*, 532 F.2d 697 (9th Cir.) (en banc) (''To act 'knowingly,' therefore, is not necessarily to act only with positive knowledge, but also to act with an awareness of the high probability of the existence of the fact in question.''), cert. denied, 426 U.S. 951 (1976); see also *Leary* v. *United States*, 395 U.S. 6, 46 n. 93 (1969).

On the other hand, the standard articulated here is not tantamount to negligence or recklessness. We simply note the well-established proposition that conscious avoidance of certain facts should not provide immunity from prosecution; in contrast, if lower-level corporate officials conspire to hide the true financial health of the company from the CEO for whatever reasons, the CEO will not be held liable if he or she did not know these facts. We expect that this would be a rare event, however, given the requirement that a CEO be aware of the contents of their company's financial reports filed with the SEC. See, e.g., *Howard* v. *Everix Systems, Inc.*, 228 F.3d 1057, 1062 (9th Cir. 2000) (''Key corporate officials should not be allowed to make important false financial statements knowingly or recklessly, yet still shield themselves from liability in the preparation of those statements. Otherwise, the securities laws would be significantly weakened, because corporate officers could stay out of loop such that . . . only the SEC could bring suit against them in an individual capacity for their misrepresentations.'') Nor does Congress intend Section 906 to be a so-called ''public welfare law'' which would create strict liability. See, e.g., *United States* v. *Dee*, 912 F.2d 741 (4th Cir. 1990) (holding that one who possesses hazardous wastes will be presumed to be aware of federal regulations governing such wastes, notwithstanding law's inclusion of a knowledge mens rea requirement).

''Willful.'' Section 906 also creates a new 20-year felony provision, 18 U.S.C. §1350(c)(2), which applies to corporate officials who ''willfully'' certify financial statements which they know to be false. ''Willfully'' here is meant to denote a specific intent standard. When used in the criminal context, a ''willful'' act is generally one undertaken with a bad purpose, or with knowledge that the prohibited conduct is unlawful. See *Bryan*, 524 U.S. at 191–92. Under Section 906, certifying financial statements which the CEO knows are false is not enough to be ''willful.'' Rather, the act also must be done with an evil intent to evade the law. That evil intent is an intent to disobey or disregard the law, rather than an intent to do wrong in some more general sense. A corporate executive who certifies financial statements which he knows to be false is not guilty under this section unless, in addition to knowing what he was doing, he voluntarily and intentionally engaged in conduct that he knew was prohibited. See *Ratzlaf* v. *United States*, 510 U.S. 135, 142 (1994) (describing a '' 'willful' actor as one who violates 'a known legal duty' ''); *Cheek* v. *United States*, 498 U.S. 192, 201 (1991) (establishing that ''the standard for the statutory willfulness requirement is the 'voluntary, intentional violation of a known legal duty' '').

Section 1350(c)(2)'s construction is consistent with prior judicial interpretations of the word ''willful.'' As the Supreme Court has observed, ''the word 'willfully' is sometimes said to be 'a word of many meanings' whose construction is often dependent on the context in which it appears.'' *Bryan*, 524 U.S. at 191. ''Willfully'' may mean either a requirement of general intent or specific intent. Recognizing that ignorance of the law typically is no defense to a criminal charge, Congress here intended to require a more particularized showing of knowledge in order to access the tougher criminal penalties under §1350(c)(2)—i.e., knowledge of the specific law or rule that a defendant's conduct is alleged to violate. In passing this section, Congress relied on the Court's determination in cases like *Ratzlaf*, 510 U.S. 135, and *Cheek*, 498 U.S. 192.

In these cases, the Court interpreted the term ''willfully'' in two different statutes, one dealing with structuring transactions and the other dealing with tax evasion, as requiring a finding of specific intent. *Ratzlaf*, 510 U.S. at 141; *Cheek*, 498 U.S. at 200. Part of the Court's reasoning was that the complex nature of these laws justified an inference that Congress intended ''willfully'' to be a specific intent requirement so that those who were ignorant of the law, but exercised reasonable care, would not be subjected to the same punishment as bad actors with an evil intent. *Ratzlaf*, 510 U.S. at 144–46; *Cheek*, 498 U.S. at 200, 205. Stated differently, Congress made violations of these statutes ''specific intent crime[s] because, without knowledge of the . . . requirement, a would-be violator cannot be expected to recognize the illegality of his otherwise innocent act.'' *United States* v. *Eisenstein*, 731 F.2d 1540, 1543 (11th Cir. 1984). Like the anti-structuring and tax evasion provisions at issue in *Ratzlaf* and *Cheek*, securities laws are complex, which is why Section 906 incorporates different penalties for ''knowing'' violations committed with general intent and ''willful'' violations characterized by a specific intent to violate the law. In effect, for the heightened penalties triggered by ''willful'' violations, Section 906 carves out a limited and rebuttable exception to the traditional rule that ''ignorance of the law is no excuse.'' See *Bryan*, 524 U.S. at 196.

Finally, for purposes of clarity, we should mention that we are aware that the term ''willfully'' is invoked and interpreted differently in the context of civil administrative disciplinary proceedings instituted by the SEC under federal securities laws. For example, under Sections 15(b)(4) and 15(b)(6) of the Securities Exchange Act of 1934, the SEC may discipline a registered broker-dealer in securities or anyone associated or participating with the broker-dealer if it finds in such proceedings that the respondent has ''willfully'' violated or ''willfully'' aided and abetted the violation by any person of any provision of certain securities laws or rules. While, as we have noted, the meaning of ''willfully'' depends on statutory context, in the SEC administrative disciplinary context, it has been held to mean ''no more than the person charged with the duty knows what he is doing.'' *Hughes* v. *Securities and Exchange Commission*, 174 F.2d 969, 977 (D.C. Cir. 1949); see also *Seaman* v. *Securities and Exchange Commission*, 603 F.2d 1126, 1135 (5th Cir. 1979), aff'd on other grounds, 450 U.S. 91 (1981); *Arthur Lipper Corp.* v. *Securities and Exchange Commission*, 547 F.2d 171, 180 (2d Cir. 1976), cert. denied, 430 U.S. 1009; *Stead* v. *Securities and Exchange Commission*, 444 F.2d 713, 714–15 (10th Cir. 1971), cert. denied, 404 U.S. 1059. See also the discussion of willfulness in *Wonsover* v. *Securities and Exchange Commission*, 205 F.3d 408, 413 (D.C. Cir. 2000). The court reiterated its ''traditional formulation of willfulness'' for purposes of Section 15(b) of the Exchange Act. Citing its prior holding in *Gerhard & Otis, Inc.* v. *Securities and Exchange Commission*, 348 F.2d 798 (D.C. Cir. 1965), the Court noted that ''willfully'' in that provision ''means intentionally committing the act which constitutes the violation,'' not that ''the actor [must] also be aware that he is violating [the law].'' *Tager* v. *Securities and Exchange Commission*, 344 F.2d 5, 8 (2d Cir. 1965); *Edward J. Mawood & Co.* v. *Securities and Exchange Commission*, 591 F.2d 588, 595–96 (10th Cir. 1979) (same). Needless to say, for purposes of Section 906, we do not adopt the ''general intent'' interpretation of ''willful.''

Expert Advice. Some defendants charged in white-collar cases have attempted to avert criminal liability by claiming reliance on expert advice. See, e.g., *Ratzlaf*, 510 U.S. at 142 n.10 (''[S]pecific intent to commit the crimes' . . . might be negated by, e.g., proof that defendant relied in good faith on advice of counsel.''); *Eisenstein*, 731 F.2d at 1543–44 (same). To the extent that it exists, the so-called ''reliance on expert'' defense is held to apply only when the defendant can demonstrate that he fully disclosed all relevant facts to his accountant or attorney and that he relied in good faith on the expert's advice. See *United States* v. *Johnson*, 730 F.2d 683, 686 (11th Cir.), cert. denied, 469 U.S. 867 (1984); *United States* v. *McLennan*, 563 F.2d 943, 946 (9th Cir. 1977), cert. denied, 435 U.S. 969 (1978) (noting that ''[a]dvice of counsel is no defense unless the defendant gave his attorney all of the facts, and unless counsel specifically advised the course of conduct taken by the defendant''). It is not Congress' intent to

disrupt this line of authority. We presume that, where it is a reliance on expert advice that is truly at issue, see *Johnson,* 730 F.2d at 686–87 (discounting defendants' defense where reliance on expert advice was irrelevant to the real claims at issue), the same standard articulated in the above-cited and other authority would apply to the criminal provisions contained in this title.

Finally, the duty imposed by the Section 906 certification requirement is not intended to end once a financial statement and accompanying certification are submitted. Upon discovery that a statement contains an error, immediate correction and disclosure of the correction should be required.

Interplay With Section 302 of S. 2673: Scope of Certification Requirement. At the time I offered the Biden-Hatch Amendment to S. 2673, that bill already had a provision (now codified at Section 302), which is similar to Section 906, with three significant exceptions. First, the provision does not apply to the chairperson of a company's board of directors (my original legislation and subsequent amendment to S. 2673 applied the certification requirement to chief executive officers, chief financial officers, and board chairpersons). Second, it contains no criminal enforcement provisions. Third, the scope of corporate filing activity subject to the requirements of Section 302 is far narrower, as I explain below.

Section 302 provides that the SEC must require, for each company filing periodic reports under Section 13(a) or 15(d) of the Exchange Act, that the principal executive officer and the principal financial officer, or persons performing equivalent functions, make certain certifications in each annual or quarterly report filed with or submitted to the SEC. Section 302, by its terms, only applies to annual and quarterly reports and, accordingly, its scope is so cabined. Section 906, on the other hand and quite intentionally, includes no such limitation of its scope. It is intended to apply to any financial statement filed by a publicly-traded company, upon which the investing public will rely to gauge the financial health of the company. So, Section 906 applies to annual and quarterly reports (e.g., Forms 10–K, 20–F, 40–F, 10–Q) but, unlike Section 302 certifications, is also intended to apply to so-called ''current'' reports like Forms 8–K and 6–K (foreign issuer submissions), as well as submissions of Form 11–K by employee benefit plans. The above list is merely illustrative, not exhaustive, and Congress intends the SEC to issue guidance on any additional reports which are subject to Section 906.

We are aware of the SEC's historic position that the term ''periodic reports'' describes Forms 10–Q, 10–K, 10–QSB, 10–KSB, 40–F and 20–F, which are required to be filed at specified intervals in time, and not Forms 8–K and 6–K, which are only required to be filed upon the occurrence of specified events. We in no way intend to import the more expansive scope of Section 906 into broader securities regulation; the wider view of ''periodic report'' is for purposes of implementing this specific certification requirement only.

Note that Section 906 does not require certification that the financial statements are in accordance with generally accepted accounting principles (GAAP). That omission is intentional in that the certification is designed to ensure an overall accuracy and completeness that is broader than financial reporting requirements under generally accepted accounting principles. In so doing, for purposes of this section, Congress effectively establishes possible liability where statements may be GAAP-compliant but materially misleading. See *States* v. *Simon,* 425 F.2d 796, 808 (2d Cir. 1969) (finding that accountants can be criminally liable for preparing financial statements that are GAAP-compliant but materially misleading).

Certification Form. We do not intend to prescribe the precise form or format of certification (e.g., whether the certification should appear on the signature page or among the exhibits or appendices to the report) or method of submission to the appropriate regulators. On these questions, Congress properly defers to the expert judgment of experienced officials at the SEC, who we trust will fully consider the liability implications of these administrative options. What is important is that the ultimate form reflect the substantive requirements of the Sarbanes-Oxley Act—including a recognition that, as the text of the statute and the foregoing explanation should make clear, certification under Section 302 applies to a subset of the certifications required by Section 906. Nevertheless, I have encouraged the SEC and the Justice Department to develop a single form which could be used for certifications under both Sections 302 and 906. Section 906 certification establishes a ''floor'' of minimum certification requirements, while Section 302 cites some additional factors. Accordingly, any company properly certifying under Section 302 will also satisfy the requirements of Section 906. Thus, it may be possible for the SEC to develop a unitary certification for the sake of administrative ease. However, for companies that need only certify under Section 906, a separate certification satisfying the somewhat lesser requirements of Section 906 may be appropriate.

Penalties for Failure to File Section 906 Certification. Some observers have asked whether failure to file a certification pursuant to 18 U.S.C. §1350(a)—as opposed to certifying a false financial report as accurate in violation of 18 U.S.C. §1350(c)—triggers criminal liability. It does. Pursuant to Section 3(b) of the Sarbanes-Oxley Act, ''a violation by any person of this Act . . . shall be treated for all purposes in the same manner as a violation of the Securities Exchange Act of 1934 . . . and any such person shall be subject to the same penalties, and to the same extent, as for a violation of that Act or such rules and regulations.'' As noted above, the criminal provisions of the Securities Exchange Act of 1934 (15 U.S.C. §78ff) include a 10-year felony for ''willful'' violations. Accordingly, willful failure to file a certification pursuant to Section 1350(a) of Title 18 triggers the criminal provisions of 15 U.S.C. §78ff. (As noted above, courts have interpreted ''willful'' violations of the 1934 Act to require only general intent to commit the crime.) Significantly, the U.S. Department of Justice concurs with this analysis. See Letter from Assistant Attorney General Daniel J. Bryant to the Honorable Joseph R. Biden, Jr., December 26, 2002 (''[A]s you have suggested, the Department may utilize Section 78ff's criminal penalties to prosecute executives who violate the Sarbanes-Oxley Act by willfully failing to file Section 906's required certification.''). Of course, in addition to this penalty scheme, failure to file the required Section 1350(a) certification may also result in an economic penalty, since Wall Street analysts and investors would surely take note of the failure and punish offending companies by shifting their investment dollars to compliant companies. This potential economic penalty should in no way mitigate application of the criminal penalty.

ARMENIAN GENOCIDE

Mr. LEVIN. Madam President, I rise today in commemoration of the Armenian genocide. As the 88th anniversary of this horrific event approaches, I would like to take a few moments to pay tribute to the men, women and children who were murdered or displaced in the 20th century's first systematic attempt to extinguish an entire people.

On April 24, 1915, the Turkish Ottoman government initiated a campaign to expel 1.75 million ethnic Armenians from its borders. Turkish authorities operated under the baseless claim that its Armenian community would be disloyal in a time of war since they were neither Turks nor Muslims. On April 24, government leaders rounded up 300 Armenian leaders, writers, thinkers and professionals in what was then Constantinople for their deportation or, for many, their deaths. In nearby areas, 5,000 of the poorest Armenians were killed in their homes or on the streets. Over the course of the subsequent 2 years, between 500,000 and 1 million Armenians were killed and 750,000 were forced to leave their homes.

Henry Morgenthau, who served as U.S. Ambassador to the Ottoman Empire remarked, ''I am confident that the whole history of the human race contains no such horrible episode as this. The great massacres and persecutions of the past seem almost insignificant when compared to the sufferings of the Armenian race in 1915.''

Records of eyewitness accounts allow us to gain an incomplete yet painful understanding of the atrocities the Armenian people faced. An American missionary wrote, '' . . . All tell the same story and bear the same scars: their men were all killed on the first days [sic] march from their cities, after which the women and girls were constantly robbed of their money, bedding, clothing and beaten, criminally abused and abducted along the way.''

Another account by an Armenian and corroborated by a German missionary said, ''We all had to take refuge in the cellar for fear of our orphanage catching fire. It was heartrending to hear the cries of the people and children who were being burned to death in their houses. The soldiers took great delight in hearing them, and when people who were out in the street during the bombardment fell dead, the soldiers merely laughed at them. . . . ''

I wish we could say that such events are in the past and that history will never again have not been learned and millions of other people and races have suffered at the hands of malicious leaders who have acted upon their messages of hate and intolerance.

Each year during my tenure in the Senate, I have spoken out about the Armenian genocide. I believe the highest tribute we can pay to the victims of any genocide is by acknowledging the horrors they faced and reaffirming our commitment to fight against such heinous acts in the future. It is important that we take the time to remember and honor the victims, and pay respect to the survivors, especially as that generation passes on.

I know my Senate colleagues join me in celebrating the continued vitality of the Armenian culture, and in honoring and remembering the victims of the Armenian genocide.

REGIME TARGETS INDEPENDENT MEDIA IN BELARUS

Mr. CAMPBELL. Madam President, recently I introduced S. 700, the Belarus Democracy Act, a bipartisan inititive aimed at supporting democratic forces in the Republic of Belarus. As co-chairman of the Commission on Security and Cooperation in Europe, I want to report to my colleagues on the pressures faced by independent media in that country. The Committee to Protect Journalists (CPJ) has just released their annual report documentating the dangers journalists face around the world, including Belarus.

In May of 2002, CPJ named Belarus one of the 10 worst places in the world to be a journalist due to the worsening repression under Europe's most authoritarian regime. Throughout the year the situation of the country's independent media deteriorated as Belarusian leader Aleksander Lukashenka mounted a comprehensive assault on all independent and opposition press.

While criminal libel laws had been on the books since 1999, they were not used by the Government until 2002. The law stipulates that public insults or libel against the President may be punished by up to 4 years in prison, 2 years in a labor camp, or by large fine. Articles in the criminal code which prohibit slaundering and insulting the President or government officials are also used to stifle press freedom. The criminal code provides for a maximum penalty of 5 years' imprisonment for such offenses.

Journalists critical of the fall 2001 presidential elections were targeted. Mikola Markevich and Pavel Mazheyka of Pahonya and Viktar Ivashkevich of of Rabochy were sentenced to corrective labor for 'libeling'' the President in pre-election articles. On March 4, a district court in Belarus commuted Milola Markevich's sentence from time in a corrective labor facility to ''corrective labor at home.'' On March 21, a district court released Pavel Mazheyka on parole. Under Belarus law, prisoners may be released on parole after serving half term their.

Other charges were leveled later in the year against a woman who distributed anti-Lukashenka flyers, an opposition politician for libeling the President in a published statement, and a Belarusskaya Delovaya Gazeta reporter for criticizing the Prosecutor General of Belarus. A former lawyer for the mother of disappeared cameraman Dmitry Zavadsky received a 1½ year prison sentence suspended for 2 years for libeling the Prosecutor General.

Last August the independent newspaper Nasha Svaboda was fined 100 million Belarusian rubles for civil libel of the chairman of the State Control Committee. The paper closed when it could not pay the fine. There are other forms of pressure and harassment as well.

The CPJ report notes the financial discrimination faced by nonstate media, including pressure from government officials on potential advertisers not to buy space in publications that criticize Lukashenka and his regime. Government officials also regularly encourage companies to pull advertising and threaten them with audits should they fail to do so, according to CPJ.

When the Belasrusian Government increased newspaper delivery rates, only nongovernmental papers had to pay. When the Minsk City Council of Deputies levied 5 percent tax on newspapers, government papers were again exempt. Such tactics caused such indepdents as the Belaruskaya Maladzyozhnaya, Rabochy, Den and Tydnyovik Mahilyouski to go under.

According to the State Department's recently released County Reports on Human Rights Practices ''the regime continued to use its near-monopolies on newsprint production, newspaper printing and distribution, and national television and radio broadcasts to restrict dissemination of opposition viewpoints.''

Mr. President, I urge my colleagues to support S. 700, the Belarus Democracy Act, in support of those brave individuals in Belarus, including representatives of independent media, who speak out in defense of human rights and democracy in a nation which enjoys neither.

THE SECURITY OF AMERICAN AGRICULTURE

Mr. AKAKA. Madam President, I rise today to discuss the threat of bioterrorist attacks on American agriculture.

Agroterrorism is a real and continuing concern. When Homeland Security Secretary Tom Ridge last month raised the threat advisory level to high, he launched Operation Liberty Shield to increase security and readiness in the United States. One part of Operation Liberty Shield involved taking additional steps to guarantee our food security. The government started to inspect imported food more carefully. The U.S. Department of Agriculture, USDA, alerted the food and agricultural community to give greater care in monitoring feedlots, stockyards, processing plants, import and storage areas.

An ongoing outbreak of avian influenza in the Netherlands is an example of the type of crisis we might face, and the coordination that may be needed, if a terrorist launched an attack on our agriculture. More than 9 million of the estimated 100 million chickens in the Netherlands were slaughtered to prevent the disease spreading since the outbreak began in late February. Some 800 farms in the eastern Netherlands were affected. Dutch exports of fowl and poultry products were stopped. The cost so far to farmers and the government is an estimated $108 million.

The Dutch Government took a number of strong steps to contain the disease. The Dutch Army was called up to help. Some 100 troops joined more than 400 police and customs officers to enforce a quarantine around the epicenter of the outbreak and to keep the disease from spreading to nearby Germany and Belgium. A ban on movements of live chickens and eggs within the country was imposed in early April. This led to some inconvenience to consumers since the supply of eggs in grocery stores was limited.

A coordinated attack by terrorists on some of our leading chicken producing states, for example, Georgia, Arkansas, Alabama and North Carolina, with an impact equivalent to the natural outbreak in the Netherlands would have serious consequences.

Egg and chicken production in the United States is a $20 billion plus a year industry. Another $10 billion is spent on processing and getting the chicken and eggs to market. We export more than a billion dollars of chicken products a year. Some 30,000 farm families are involved in raising chickens. Three hundred thousand people work in processing and transporting chickens for market.

On any given day there are some 1.5 billion chickens sitting in chicken coops in the United States. Over a hundred million birds might have to be slaughtered. If there was a ban on shipment of chickens and eggs, not only would chicken producers suffer, so would related industries. The trucking industry, food processing industry, food retailers, and those involved in exporting chicken products abroad would all feel the impact. Billions of dollars in losses could result. The impact on farm families and employment could be substantial.

Of course, my concern about agroterrorism is not limited to the poultry industry. Agriculture and related industries, such as food processing, manufacturing, and transportation, account for approximately 13 percent of the U.S. gross domestic product and nearly 17 percent of domestic employment. The deliberate and coordinated spread of livestock or crop diseases could have a devastating effect on our nation.

USDA is the lead authority in responding to agricultural emergencies. It has taken several steps to improve our ability to counter a terrorist attack upon our nation's agriculture. USDA has created a homeland defense council and increased border inspection and research activities. USDA's overall activities, and actions in support of Operation Liberty, are commendable. But we need to do more to prepare ourselves.

Responding to an agroterrorist attack will require coordinated efforts by

the USDA, and other federal agencies. The Federal Emergency Management Agency, FEMA, the Department of Homeland Security, DHS, the Environmental Protection Agency, EPA, and the Departments of Health and Human Services, HHS, Defense, Transportation, and Justice will all have a role to play. In addition, these agencies must coordinate with states, localities and farmers and ranchers.

In February, I introduced the Agriculture Security Assistance Act, S. 427, and the Agriculture Security Preparedness Act, S. 430. The purpose of this legislation is to encourage additional and improved coordination and preparedness on the federal, state, regional, and local level.

The Agriculture Security Assistance Act, S. 427, will assist States and communities preparing for and responding to threats to the Nation's agriculture. My bill aims to improve our detection and response capabilities so they are rapid and swift enough to contain the spread of a disease. S. 427 directs USDA to work with each State to develop and implement response plans. The legislation establishes grant programs for communities and States to incorporate modeling and geographic information systems into planning and response activities. This funding also will help animal health professionals participate in community emergency planning activities and assist farmers and ranchers in strengthening the biosecurity measures on their own property.

The Agriculture Security Preparedness Act, S. 430, will enhance agricultural biosecurity by strengthening interagency and international coordination. The Act will establish senior level liaisons in DHS and HHS to coordinate with USDA on agricultural disease emergency management and response. This bill will task DHS and USDA to work with the Department of Transportation to address one of the largest risk factors in controlling the spread of a plant or animal disease: the movement of animals, plants, and people between and around farms.

Although our ability to respond to an agroterrorism attack is improving, there is still much more that could and should be done. The bills I have introduced will take the necessary steps to further enhance the actions already taken to improve agricultural security in the United States. I look forward to the Senate's support for these important bills.

THE MOBILIZED RESERVE SAVINGS ACCOUNT ACT AND THE DEPLOYED SERVICE MEMBERS FINANCIAL SECURITY AND EDUCATION ACT OF 2003

Mr. NELSON of Nebraska. Madam President, we are all very proud of the outstanding service of our military personnel during a series of significant military operations. Our soldiers, sailors, airmen, and marines, both Active and Reserve, have responded admirably to our Nation's call to service. These brave military personnel have demonstrated superb service by their participation in Operation Noble Eagle, Operation Enduring Freedom, and Operation Iraqi Freedom. Since the 1991 Persian Gulf war, our personnel have served in a number of other contingency operations, including operations in Kosovo, Bosnia, Southwest Asia, and Haiti.

For the most part, our service men and women serve without complaint. However, we know that continuous deployments create hardships for them, their families, and for employers of members of the Guard and Reserve who have been ordered to active duty. There is no way to remove all of the hardships that go with extended and dangerous military service, but we can make sure that they are adequately compensated when they do endure these hardships.

The Personnel Subcommittee of the Armed Services Committee recently held two hearings that included testimony about our Guard and Reserve Troops. We learned:

Although income loss data for current operations is not available, data for past military operations show that about a third of mobilized Guard and Reserve personnel have some income loss, a third have no change, and a third actually report an income increase. GAO reported that a DoD survey conducted in 2000 revealed that ''the average total income change for all members (including losses and gains) was almost $1700 in losses.'' Certain groups, such as self-employed reservists and medical professionals in private practice, reported greater income loss than the average estimated for all reservists.

Reserve component members who have been mobilized are eligible for the same pay and benefits, health care, and family support as their Active component counterparts, although some of them face challenges in understanding and accessing their benefits. All of the services have programs in place to help the members and their families to obtain their benefits.

Despite the isolated news reports about income loss, Reserve component leaders indicate that their service members are not complaining about income loss and that they are happy about being called up to do what they signed up to do.

It is very important that we not create an income disparity whereby a mobilized Reserve component member would be paid more than his or her Active component counterpart of the same grade and experience performing the same duties.

About a third of Reserve component members are involved in some sort of educational program. Some have reported difficulties in maintaining their educational status; loss of academic credits, scholarships and grants; and loss of tuition and other fees paid when they were ordered to active duty. Although many colleges and universities are providing relief, not all are.

We also know that our Active component service members have been stretched with these frequent and lengthy deployments. Granted, they are in a little different circumstance because they volunteered for full-time military service, but these deployments are wearing on them and their families just as much as the mobilization affects Reserve component members and their families.

With this in mind, I recently introduced two bills, the Deployed Service Members Financial Security and Education Act of 2003 and the Mobilized Reserve Savings Account Act.

Deployed Service Members Financial Security and Education Act of 2003 is designed to compensate both Active and Reserve military personnel for frequent and lengthy deployments. It will authorize a new special pay of $1,000 per month for:

Active and Reserve component military personnel who are deployed for 191 or more consecutive days;

Active and Reserve component military personnel who are deployed for 401 or more days out of a rolling 730 day period; and

Reserve component military personnel who are mobilized for a second time within a year of being released from and earlier call-up.

This bill will also amend the Soldiers and Sailors Civil Relief Act to protect the educational status and tuition payments of service members ordered to active duty and it will limit interest rates on their student loans while on active duty.

The Mobilized Reserve Savings Account Act will authorize a pretax savings plan for Guard and Reserve members that they can use to supplement their military income when they are ordered to active duty. This will serve as an incentive for those who know that their income on active duty will be less than their normal income.

These bills are relatively modest proposals that will assist our service men and women who are asked to spend the most time away from their homes and families. It is the least we can do.

I would like to end my remarks by also, once again, thanking all the members of our armed services and their families for the sacrifices made to defend this nation. Your efforts have not gone unappreciated by the folks back home.

I ask that the proposal be printed in the RECORD. The proposal follows.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PROPOSAL

A new special pay of $1000 per month for lengthy or numerous deployments for:

Active and Reserve Component members who are deployed for 191 or more consecutive days,

Active and Reserve Component members who are deployed for 401 or more days out of a rolling 730 period, or

Reserve Component members who are mobilized for a second time within a year of being released from active duty.

Amend the Soldiers and Sailors Civil Relief Act to protect the educational status and tuition payments and limit the interest rate on student loans of service members called to active duty.

Authorize a new 401(k) type plan where members of Reserve Components can invest pre-tax dollars that can be withdrawn to supplement military income when member is mobilized or completes his or her military career.

THE PROTECT ACT, S. 151

Mr. BAUCUS. Madam President, although I voted in favor of the conference report on S. 151, I must register my profound concern with certain provisions that were added to the conference report that have nothing to do with protecting children.

I am referring to title IV of the conference report that mandates sweeping changes to the Nation's sentencing laws and guidelines. These provisions stem from an amendment added to the bill in the House, and later modified under unusual circumstances in the conference committee.

These provisions will drastically impact the discretion and independence of Federal judges and the judiciary to impose just sentences not just for child and sex abuse crimes, but for all crimes. These provisions will alter the sentencing laws of the United States, with little or no public debate or hearing on the issue, and with little or no research or study on whether too many Federal judges are in fact abusing their discretion or improperly granting departures from mandatory minimum sentences.

As my colleague from Massachusetts pointed out, if the majority on the conference committee had limited these changes to the serious crimes of sex abuse of children and child pornography, there would be little or no objection to these provisions. But they didn't. They allowed the de novo appellate review and other provisions to stand, provisions which will restrict the ability and discretion of Federal judges to grant downward departures for all offenses.

Unfortunately, as the majority is well aware, the child abduction notification provisions and virtual child pornography provisions of S. 151 are too important to delay any longer than necessary. I cannot vote against those provisions—we must do everything we can to strengthen the hand of State, Federal, and local law enforcement, as well as prosecutors, to protect our children from sexual predators.

It is just unfortunate that this must-pass legislation was taken advantage of to move sweeping reforms of the larger U.S. criminal justice system, reforms the Senate did not debate and on which no hearings were held. I hope we will be able to revisit this matter in the near future.

Mr. BINGAMAN. Mr. President, yesterday I joined my colleagues in voting for S. 151, the PROTECT Act, legislation that is intended to help reduce the incidence of child abduction in our country. The bill passed unanimously on a vote of 98 to 0. I voted for this bill because I believe it contains many important and needed provisions, but I did so with reservations about a couple of different sections of the bill that, in my view, deserved further deliberation.

Before I discuss these reservations, let me start by discussing the most important provisions in this bill. First, this legislation establishes a national AMBER alert system, which includes the establishment of an AMBER alert coordinator within the Department of Justice to assist states with their AMBER alert plans, and which will help to eliminate gaps in the network through better regional coordination among plans. I was pleased to be a cosponsor of the stand-alone version of this bill in both the 107th and 108th Congresses. My home State of New Mexico already has an Amber alert plan, which was recently codified by our State legislature, and I am hopeful that this new Federal legislation will allow my State to receive funding under the new grant programs created by this bill.

Second, the bill includes the so-called ''Code Adam Act,'' which would require Federal buildings to establish procedures to locate a child that is missing in the building. The original Code Adam—one of the country's largest child safety programs—was created by Wal-Mart in 1994 and is now used in more than 36,000 stores nationwide. It is also supported by the National Center for Missing and Exploited Children

Third, in spite of the many extraneous provisions added by the House, the bill includes much of the original PROTECT Act, which passed the Senate unanimously last year. These provisions provide needed tools to prosecutors to help them deal with the problem of child pornography in a way that should pass constitutional muster. Congress first addressed this issue in the 1996 Child Pornography Protection Act, but a significant portion of that law was struck down by the Supreme Court last year. I am pleased with the work of the Senate Judiciary Committee in working through the issues raised by the Supreme Court in a thoughtful and bipartisan way, and I am hopeful that this new measure will help ensure that child pornographers are held accountable for their actions.

I would like to say a few words now about my reservations in voting for this bill. Title IV of the bill makes significant new changes to Federal sentencing procedures in the name of reform. While many of these changes may turn out to be beneficial, at no point in the legislative history of this bill was there an opportunity for critical questions to be raised and answered about these new sentencing reforms. Title IV was added in conference as an amendment with little opportunity for the minority to even read the amendment or engage in a thoughtful debate. Further, several of my colleagues on the Judiciary Committee have noted their objections to what they view as a misrepresentation of the amendment in conference. I do not believe this is the way in which we should do business, and I am disappointed that there was not an opportunity for my colleagues to debate their legitimate concerns further.

In particular, Senator LEAHY raised concerns that this amendment could potentially undermine the Federal sentencing system and prevent judges from imposing just and responsible sentences. As justification, Senator LEAHY cites remarks by Chief Justice Rehnquist on the nearly identical Feeney amendment, which was added to the bill on the House floor. In those remarks, the Chief Justice said, ''This legislation, if enacted, would do serious harm to the basic structure of the sentencing guideline system and would seriously impair the ability of courts to impose just and responsible sentences.''

Whether one agrees with the sentencing reform provisions in this bill or not, the very fact that the Chief Justice of the United States Supreme Court has voiced concerns about it leads me to believe that more time was needed for both the Senate and the House to consider the scope and potential impact of this legislation.

Finally, I would like to comment on another piece of the PROTECT Act, which was added as an amendment in conference by Senator BIDEN. The Illicit Drug Anti-Proliferation Act, previously known as the RAVE Act, modifies the current so-called ''crack house'' statute to make clear that anyone who knowingly or intentionally uses his or her property, or allows another person to use his or her property, for the purpose of distributing, manufacturing, or using illegal drugs will be held accountable. The provision also allows for civil suits against violators.

I have received many calls and letters from people in my State who have raised legitimate concerns about this legislation. While I fully support efforts to ensure that our youth do not fall victim to drugs, and while I understand that Senator BIDEN modified his bill slightly from the previous Congress to address concerns that were raised, I would have preferred that this legislation be allowed to go through the normal legislative process. This would have allowed a public airing of the many concerns that I have heard, and would have provided an opportunity for the Senate Judiciary Committee to address those concerns, as necessary.

I hope very much that during the remainder of this Congress we can revisit both these new provisions related to sentencing and the RAVE Act.

NOMINATION OF ROSS SWIMMER

Mr. DORGAN. Madam President, I necessarily missed last evening's vote on the nomination of Ross Swimmer to be the Special Trustee for American Indians because of a family obligation.

However, had I been present, I would have opposed this nominee, as I did when his nomination was considered by the Committee on Indian Affairs, on which I serve. I would like to take a few moments to explain why I do not support this nomination.

Ordinarily, I believe the President has the right to choose who will serve in his administration. The position of Special Trustee for American Indians is unique, however. Congress created the position of Special Trustee in 1994 in large part because of the historical failure of the Department of the Interior to live up to the Federal Government's trust responsibility to Native Americans. The Special Trustee was and is intended to be an advocate on behalf of tribes and individual Native Americans to ensure that those trust duties are met. In my view, Native Americans deserve someone in this position in whom they can have confidence. Regrettably, Mr. Swimmer is not that person.

Many tribal leaders from my State have shared with me their very deep concern that Mr. Swimmer would not be an independent voice and advocate on behalf of Native Americans within the Department of the Interior. In fact, under previous administrations and in recent months, he has been an integral part of the Department of the Interior team that has sought to implement trust management reforms without the full support of and consultation with the Native Americans whose assets they manage. To many of my Native American constituents, this is akin to allowing the fox to guard the henhouse.

Nevertheless, Mr. Swimmer has now been confirmed by a majority of the Senate to serve as Special Trustee for American Indians, and I wish him success in that position. He has made a commitment to me and others to consult with tribes in a timely and meaningful way, and I will certainly be working with Mr. Swimmer to ensure that is the case.

WAR CRIMINALS

Mr. KYL. Madam President, I rise in support of the goal of this nonbinding resolution, which is to promote bringing Saddam Hussein and his war criminals to justice.

In reading the language of the resolution, I note that it does not preclude the United States itself from detaining or from prosecuting Iraq war offenders of any nationality before a United States military tribunal or some other American-arranged forum.

It also does not preclude a new Iraqi government from prosecuting these criminals in an Iraqi tribunal if it is deemed that this is feasible and likely to result in substantial justice. The resolution also does not in any way mandate constitution of an international tribunal, something which the United States should oppose, as it would preclude the death penalty.

With this understanding, I support the resolution.

TRIBUTE TO MAJOR GENERAL A. BOWEN BALLARD

Mr. SESSIONS. Madam President, I take this opportunity to recognize the retirement of a friend and outstanding Air Force Officer, Major General A. Bowen Ballard. Major General Ballard's superior and exceptionally distinguished Air Force career warrants comment as the Air Force says thank you and goodbye to one of its best.

Major General Ballard has served this Nation and the United States Air Force for more than 37 years. His service has been marked by increasingly demanding command and staff positions, culminating as the Mobilization Assistant to the Commander, Air University, Maxwell AFB, AL.

Throughout his military service, Major General Ballard has served with distinction and honor. It is my privilege to recognize his many significant contributions and to commend him for his outstanding service. A son of Alabama, Major General Ballard grew up in Montgomery and attended elementary and junior high school in Cloverdale. After graduating from Lanier High School, he enlisted in the Alabama Air National Guard as an intelligence specialist, while at the same time he attended the University of Alabama earning a degree in business and finance.

In 1966, he was commissioned and resumed his service in Air Force Intelligence. Major General Ballard attended the Air Intelligence School at Lowry Air Force Base, CO, and from 1967 until 1974, he filled various intelligence positions with the 187th Tactical Reconnaissance Group, Alabama Air National Guard.

Leaving the Alabama Air National Guard and joining the Air Force Reserve in 1974, Major General Ballard was assigned to the Air Force Intelligence Service at Fort Belvoir, VA, where he played a key role in transitioning Air Force Special Operation Forces from the Tactical Air Command to the Military Airlift Command and participated with Air Force Special Operation Forces on an international basis. Major General Ballard was involved with the North Atlantic Treaty Organization and the United States European Command for many years.

During his assignment as the Mobilization Assistant to the Chief of Staff, Intelligence, Headquarters United States Air Force, Major General Ballard was recalled to active duty in a key position of leadership to manage the planning, directing, and establishing of policies and procedures for all USAF intelligence activities.

As the Mobilization Assistant to the Director of the National Security Agency/Chief, Central Security Services, Fort George G. Meade, MD, Major General Ballard's guidance and direction was critical in identifying and resolving critical issues affecting the Air Force during one of the most turbulent and demanding times in our history.

Major General Ballard frequently met with the senior military leadership, to include the Secretary of Defense, Secretary of the Air Force, the Chief of Staff of the Air Force, and members of the Senate and Congress, effectively presenting crucial positions involving specific operational intelligence and professional military education issues. He achieved unparalleled success in charting the strategic direction and employment concepts as the Chairman of the Assistant Secretary of Defense's Command, Control, Communication and Intelligence Steering Council. Major General Ballard represented commanders of the Air University and Air Force Space Command on numerous panels, boards, and work groups, including personally leading the development of creative and innovative improvements to the Joint Reserve Intelligence Program. Major General Ballard was directly responsible for identifying, developing and implementing a significantly new direction for Reserve Intelligence roles and missions in space operations. Under his untiring leadership, the Air Force Space Command Reserve Intelligence Program transformed into a vital partner in on-orbit space collection intelligence assessments.

As the Mobilization Assistant to the Commander, Air University, he assisted the commander with significant improvements to Air University schools in curricula and coursework, joint programs, faculty management, computer technology, and communications systems. As a result of his efforts, all graduates of Air Command and Staff College and Air War College now receive masters degrees in military science. Major General Ballard's leadership skills were constantly in high demand. For the Joint Chiefs, he developed the Joint Chiefs of Staff/Department of Defense Strategic Plan, providing unprecedented joint contingency support to operations in both Operation Noble Anvil and Operation Allied Force. For the combatant commanders, he applied his focus on language and distributed joint reserve component intelligence operations and implemented a flexible solution which paid significant dividends in the military theater of operations and in the global war on terrorism. Major General Ballard also established the foundation for joint cryptology reserve component support to the European and Pacific Command. The formulation and justification of cryptolgic reserve support elements blossomed into greatly improved reserve component support in intelligence operations ensuring a significant reserve augmentation force well into the 21st century. Major General Ballard has demonstrated time and time again superior performance, planning, coordinating, directing, and managing of Air Force operational intelligence programs, and Air Force Reserve intelligence mission augmentation activities. Major General Ballard's

work with the Air University Integrated Program Review process resulted in significant increases in Individual Mobilization Augmentee positions to meet critical Air University mission needs. As a direct result, Air Reserve forces made significant and long-lasting contributions to successful Air University mission operations. From determining the effective and efficient use of Reserve Force personnel in war and during peacetime, to redefining roles, missions, force structure, training, morale, finance, recruiting, and retention, Major General Ballard always led from the front.

We wish to extend congratulations to Major General Ballard on the occasion of his retirement. We are honored to recognize his many accomplishments and ask that our colleagues in the United States House of Representatives join in recognizing his very worthy achievements.

NUCLEAR EARTH PENETRATOR WEAPONS: THE MYTH AND DANGER

Mr. AKAKA. Madam President, I rise today to discuss the myth and dangers posed by the nuclear earth penetrating weapons proposed by the Bush administration.

The administration suggests that new nuclear weapons could be needed to destroy a growing number of hard and deeply buried targets, HDBT. The Intelligence Community has estimated that there are over 10,000 potential HDBTs worldwide. Many of these are near the surface, serve tactical roles, and can be attacked with conventional weapons. But some hundreds of these targets have stronger concrete reenforcement, or are buried at great depths, or are in tunnels. They play a strategic role, protecting senior leaders, command and control centers, or stored weapons of mass destruction. Of particular concern are the very hardened or deeply buried HDBTs located in so-called rogue nations

To attack the most deeply buried structures, the administration would like to have a nuclear weapon that could destroy a bunker some 300 meters, or about 1,000 feet, underground without causing substantial ''collateral damage.'' The administration is proposing to explore two new nuclear weapons for attacking this category of targets. The first is the so-called Robust Nuclear Earth Penetrator, or RNEP for short. The second is a new class of low-yield nuclear warheads.

These two initiatives are often confused in the press or thought to be different versions of a mini-nuke bunker-busting nuclear weapon. The two candidates being considered by the administration for modification into a RNEP, the B61 and B83 bombs, have been in the U.S. arsenal for a number of years. They are not, however, low-yield weapons. In fact, they have yields in the tens of kilotons to megaton range.

Due to congressional concerns, the fiscal year 2003 Defense authorization bill required the Department of Defense to deliver to the Armed Services Committees of both Chambers a report on the need for an RNEP before funds could be spent on the program. On March 19, 2003, the administration delivered the report. After a 30-day waiting period, the administration has said it will begin to study whether the B61 or B83 bombs can be modified into a RNEP. The administration plans to spend some $15 million on this work in fiscal year 2004, and the study could cost as much as $46 million.

As for low-yield nuclear weapons, these are nuclear weapons with an explosive yield of less than 5 kilotons. Ten years ago, Congress placed a prohibition on ''research and development'' that could lead to the production of a new low-yield nuclear weapon in the fiscal year 1994 Defense Authorization Act. In the early 1990s, advocates of low-yield weapons claimed that precision strikes with such weapons could be used to attack weapons of mass destruction in third-world states that had acquired them. Congress was concerned that the development of such weapons would send the wrong message about the U.S. commitment to nonproliferation. In addition, there were fears that if such weapons were developed, the firewall between nuclear and conventional weapons would be removed.

The administration now seeks to remove the prohibition on research on low-yield weapons research. The administration's Nuclear Posture Review calls for exploring new nuclear weapons ''concepts'' to be able to attack HDBTs with reduced collateral damage. According to the administration, the congressional restriction on research on low-yield nuclear weapons ''impedes this effort.''

Ignoring the policy implications of making a nuclear weapon an acceptable tool to be used like a conventional weapon, there is still the critical question of whether such a weapon could destroy a deeply buried target without massive collateral damage. Could a weapon burrow so deep that its nuclear explosion could be safely contained within the Earth? The short answer to this question is no.

To be a bunker buster, the weapon design must protect the warhead and associated electronics while it tunnels into the ground. This severely limits the missile to smaller impact velocities, which, in turn, severely limits how far down it can go. In fact, limits on material strengths make 50 feet about the maximum depth to which a missile could penetrate into dry rocky soil while maintaining its integrity until the warhead detonates.

The radioactive fallout from a nuclear weapon detonated at a maximum depth of 50 feet could not be contained. Even a low-yield nuclear weapon of 0.1 kiloton, according to Princeton physicist Robert Nelson, must penetrate about 230 feet underground for the explosion to be fully contained. Based on the experience of U.S. underground tests at the Nevada Test Site, a 5-kiloton explosive has to be buried at least 650 feet to be fully contained. A 100-kiloton explosive must be at least 1,300 feet deep.

To comprehend what would happen if a nuclear bunker-busting weapon were used, consider the damage that would result from the use of a ''low-yield'' 1-kiloton warhead. Such a weapon would be one-thirteenth the size of the atomic bomb dropped over Hiroshima, and of a size that may be pursued if the congressional prohibition on research on low-yield weapons is removed. At the maximum depth possible of 20 to 50 feet, a 1-kiloton warhead would eject more than 1 million cubic feet of radioactive debris from a crater bigger than a football field. If such low-yield weapon were used to attack a HDBT in or near a city, it could devastate the area. There would be major collateral damage because the ejected radioactive debris would create a lethal gamma-radiation field over a large area.

For the shock of a nuclear explosion to reach a hardened target at 1,000 feet, a much larger warhead would be required, like the B61 and B83 bombs being considered for the RNEP. But the B61 and B83 bombs would dig a much larger crater and create a substantially larger amount of radioactive debris, causing that much more radioactive fallout and devastation.

I also am concerned about the logistical problems of using nuclear weapons in a combat setting. Destroying bunkers requires knowing exactly where they are and delivering a weapon with precision and accuracy. During Operation Enduring Freedom, American Special Forces were used as spotters on the ground near the targets to provide the intelligence necessary to strike suspected al-Qaida command bunkers and weapon depots. Our Special Forces would be in great danger if on-the-ground spotting were required for nuclear bunker busters.

As we have seen in our efforts to target Saddam Hussein, his bunker complexes are often located inside Baghdad. Leaders of other ''rogue states'' can be expected to construct their command and control centers inside their capital cities too. The potential for collateral damage to our troops and the public our forces are liberating are obvious.

Another consideration is battlefield assessment. Some bomb damage assessment can be done from the air, but if a closer look is needed, how soon could troops be sent in to determine if the strike was successful? The answer depends on the importance we place on the safety and health of our forces. If we use the underground Nevada Test Site as one real-world example, it will be a very long time. If battle planners need assessment more quickly, or we need to recover evidence of what was contained in a bunker, then American soldiers and marines will be put at risk.

This is not a theoretical consideration. We are discussing DNA testing of bodies found in Iraq to determine if they are in fact Saddam Hussein, his sons, or his closest associates. Had the administration used a nuclear weapon to destroy Saddam Hussein's command bunker, this task would be infinitely more difficult, and more dangerous.

I appreciate the challenge that deeply hardened bunkers pose. I am not convinced that RNEP or low-yield nuclear weapons are the answer. Indeed, the Pentagon already has a number of conventional weapons capable of destroying hardened targets buried at 50 feet, or putting them out of action by blocking entrances and exits. Moreover, ADM James Ellis, Commander-in-Chief of U.S. STRATCOM, recently told Congress that he plans to emphasize conventional options in STRATCOM's new global strike mission in order to reduce U.S. reliance on nuclear weapons. Research and development have improved the precision, penetrating capability, and explosive power of conventional weapons dramatically over the last decade. Further research and development on conventional weapons to attack buried and hardened targets are underway.

Sometimes, the simplest solution is the correct one. We do not need a nuclear weapon to destroy a tunnel entrance or a mineshaft. The same research in material science and precision guidance that will allow a missile to aim and protect the warhead to penetrate farther should be applied to conventional bunker busters. Conventional bunker busters could meet the challenge of threatening the several hundred most hardened and deep targets in question. Conventional bunker busters would not place civilian populations or our forces at undue risk and harm, and would keep the barrier between nuclear and conventional weapons high and wide.

Finally, we must keep in mind the serious international implications of the administration's pursuit of new nuclear weapons designs. Russian nuclear weapons designers have advocated new generations of more usable nuclear weapons. If the United States starts down this path, Russia will be encouraged to do the same. If Russia begins, maybe China will too. A new arms race in supposedly low-yield and ''usable'' nuclear weapons will result. If NATO forces move farther east, Russia may deploy such weapons opposite NATO forces. China may view them as usable in crisis with Taiwan. We should stop this new tactical nuclear arms race before it starts. We should not develop the RNEP. We should keep the prohibition on research on the low-yield nuclear weapons.

JIM CLAYTON

Mr. ALEXANDER. Madam President, I rise today to pay tribute to an outstanding Tennessean, James L. Clayton, better known as Jim.

Jim Clayton is the son of a sharecropper and was raised in West Tennessee. This impressive Tennessean has lived the American dream of Horatio Alger. From his most humble beginnings, he has gone on to become one of the wealthiest men in the United States. Mr. Clayton is the entrepreneur behind Clayton Homes, Inc., a $1.2 billion manufactured-housing company, which is one of Tennessee's great economic treasures.

Last week, Warren Buffett, the widely respected head of Berkshire Hathaway, recognized what we in Tennessee have long known about the quality of Clayton Homes by offering $1.7 billion for the purchase of Clayton Homes' manufactured-home empire.

Mr. Clayton has served as chairman of the board of Clayton Homes, Inc., since he founded the original Clayton auto sales companies in 1956. In 1966, he expanded and branched out into manufactured housing and sold his automobile dealerships in 1981. The Clayton Homes corporate headquarters is located in the county of my hometown, Blount County, TN. Clayton Homes employs 2,500 Tennesseans who work in its sales centers and factories in excellent jobs. Thousands more Tennesseans are employed in good jobs as a result, direct and indirect, of Clayton Homes. And I am pleased to say that as a result of the negotiations, Berkshire Hathaway has agreed to leave Clayton Homes and its employees in Tennessee.

I want to say a few words about Jim Clayton, who is a good and long-time friend. Mr. Clayton received his college degree from the University of Tennessee in 1957 and his law degree from the University Of Tennessee College Of Law in 1964. He has received several honorary doctoral degrees and numerous business awards, including many Wall Street Transcript Gold Awards, Silver Awards, and a Bronze Award as the top chief executive in the manufactured-housing industry. Forbes, the business magazine, has named Clayton Homes, Inc., one of its 200 Best-Managed Companies at least nine times. Clayton Homes has received the Platinum Award for being one of the top companies in the United States. Just this year, Worth magazine recognized Jim Clayton as one of Tennessee's wealthiest residents. Mr. Clayton's amazing story from sharecroppers' son to America's business elite can be found in his fascinating autobiography, First a Dream.

Mr. President, not only is Jim Clayton outstanding in the business arena, he is also an outstanding member of the Knoxville, TN community. He has made generous contributions to many charitable causes, including $3.25 million for construction of the Knoxville Museum of Art; $1 million for the University of Tennessee College of Law for its Center for Entrepreneurial Law; $1 million to start the Clayton Birthing Center at Baptist Hospital; and many grants to K–12 educational programs, most of which were given anonymously.

Mr. Clayton also generously donates his time to various committees and community organizations that work to improve Knoxville and its surrounding communities.

I know Mr. Clayton and count him as a friend. Despite his great wealth and success, I know him to be a warm and humble person. But my colleagues need not take the word of one of Mr. Clayton's friends. Many other Tennesseans have told me over many years of how helpful, kind, and approachable Mr. Clayton is, what a perfect gentleman he is. Mr. President, compliments do not get much better than that.

Mr. President, this brief statement cannot capture all the strengths of Jim Clayton and his manifold good works for his employees, his customers, his community, and his State. I did want to bring to my colleagues' attention the accomplishments and legacy of Jim Clayton, and I am honored to recognize his contributions to Tennessee and America as a whole.

NATURALIZATION AND FAMILY PROTECTION FOR MILITARY MEMBERS ACT OF 2003

Mr. BROWNBACK. Mr. President, I am pleased to rise today to add another voice of support for the Naturalization and Family Protection for Military Members Act of 2003.

Earlier today, the President visited Bethesda Naval Hospital with his wife Laura and spent time with some of the courageous men and women who have been wounded while fighting both to secure the safety and freedom of all Americans, as well as on behalf of a people starving for access to our ideals of liberty and justice for all. After this visit, he was visibly moved by the bravery and patriotism he witnessed, and he noted a special moment for him. I'd like to quote his comments from the press conference now:

''I think the thing that stood out the most to me was seeing two wounded soldiers swear in as citizens of the United States. One man from Mexico, one man from the Philippines. People who had gone overseas. People who had risked their lives for peace and security and freedom. They wore the uniform of the United States military. And Laura and I got to see them sworn in as citizens. It was a very profound moment. We were both honored to have witnesses this.

''You know, we got an amazing country where so powerful, the values we believe, that people would be willing to risk their own life and become a citizen after being wounded. It's an amazing moment. Really proud of it.''

The President's words speak to exactly why this legislation is so important—and so worthwhile. These men and women are willing to risk their own lives on our behalf, even though they are not yet citizens of this country. It is why I once again strongly encourage the Senate to lend its support to this bill.

ADDITIONAL STATEMENTS

RECOGNIZING CONNIE KRUEGER

• Mr. JOHNSON. Madam President, Ralph Waldo Emerson once put into words what many know about the art of education, but many of us sometimes fail to realize: ''The secret of education is respecting the pupil.''

I rise today to recognize an exceptional teacher whom we are fortunate to have in South Dakota, who has never forgotten this maxim. Indeed, she has chosen to live by it. Connie Krueger of Rapid City, SD was recently recognized for her commitment to education and to her students by the South Dakota Council of Teachers of English when she was named the 2003 Language Arts Teacher of the Year. I want to take a moment today to recognize Connie for this highly deserved honor, and to commend her lifelong dedication to learning and young people.

I consider myself especially lucky to have known Connie before she formally became an educator, when we both roamed the halls of Vermillion High School as fellow students. Even as a teenager, it was evident that Connie had a passion for life and learning that was almost contagious. Connie and I were two of the many students influenced by another great teacher, Mrs. Donna Gross. Connie credits Mrs. Gross as being a large part of the reason for her decision to enter the field of education, and I know that Mrs. Gross is very proud of what Connie has done for students and education in South Dakota.

One of Connie's many contributions to education in South Dakota is her participation in, and advocacy for, the Dakota Writing Project. Funded by the National Writing Project, the Dakota Writing Project is a collaborative university and school staff development program to improve the teaching and learning of writing in South Dakota classrooms. Connie has been instrumental in the growth and development of the project, which gives teachers the opportunity to learn from other teachers, while also demonstrating the cross-disciplinary importance of writing. Through her work with the project, Connie not only empowers her colleagues, but also provides educational benefits to all the lives that her colleagues touch.

At the heart of everything that she does is the interest in her students. On her nomination form for the award, Connie wrote that she ''will honestly answer any question my students ask, although I reserve the right to not answer if the question makes me uncomfortable. I've yet to use that veto.'' It is this kind of respect and openness with her students, coupled with her love for the subject matter, that has made he such an exceptional educator.

Her love of education, and of English, is also evident in the professions that her own children, Mike and Heidi, have chosen. Mike aspires to be a teacher, and Heidi is completing her doctorate in linguistics at the University of Chicago. I know Mike and Heidi are very proud of the prestigious honor bestowed upon their mother, and the hard work and dedication she has shown them over the years.

In a recent article highlighting her award, Connie stated that her goal for this year has been, ''Be joyful.'' Well, thanks to Connie, much joy, knowledge, and inspiration has been shared with students and educators across South Dakota.

I consider myself one of the many lucky South Dakotans whose lives have been touched by Connie, and I thank her for her hard work, her dedication, and for sharing her passion for life and learning with all of us. Our State is truly blessed by her extraordinary talent and commitment to educational excellence.•

MYRTLE BEACH'S CAROLINA FOREST HIGH SCHOOL TO COMPETE IN WE THE PEOPLE COMPETITION

• Mr. HOLLINGS. Madam President, I want to recognize the students of Carolina Forest High School in Myrtle Beach, SC, who will be visiting Washington in late April to compete in the national finals of the ''We The People: The Citizen and the Constitution'' program. Right now the students are conducting research and preparing for the contest, which will test their knowledge of the Constitution and the Bill of Rights against 1,200 students from across the country. They have earned the trip by showing they were the best of the best in my State, all the more remarkable considering the school graduated its first class just 3 years ago.

Obviously, I hope my fellow South Carolinians win it all, but, whatever happens, we are all winners from this contest. When young people, on their own, want to understand the fundamental principles and values of our democracy, they are more likely to vote. They are more likely to participate in political life. They are more likely to take serious the civic duties that this Nation needs of our citizens. I wish these young South Carolinians the best of luck and thank them for their efforts.•

RECOGNIZING THE STUDENTS FROM WEST WARWICK HIGH SCHOOL

• Mr. REED. Madam President, today I rise in the special recognition of the students of West Warwick Senior High School for representing the State of Rhode Island in the national competition for the ''We the People: The Citizen and the Constitution'' program. This year's national competition will take place on April 26 to 28, 2003.

The ''We the People'' program and competition are administered by the Center for Civic Education. The program is an extensive one, developed to educate students about the Constitution and the Bill of Rights. The competition is modeled after hearings in Congress and consists of oral presentations by high school students before a panel of adult judges on constitutional topics. The students' testimony is followed by a period of questioning by the judges who probe their depth of understanding and ability to apply their constitutional knowledge.

Our current global situation has increased the importance of initiatives which help young people to understand the fundamental ideals and principles of our government. We cannot take these ideals and principles for granted. Instead, we must hold them as standards in our endeavor to preserve and realize the promise of our constitutional democracy. It is of vital importance for future generations to understand the convictions that bind us together as a nation.

I believe that these students from West Warwick deserve added recognition. Not only is this their second consecutive State championship, this year's State competition took place just 2 weeks after the tragic fire in West Warwick that injured and took the lives of almost 290 family, friends, and neighbors of these young adults. In spite of their hometown's mourning, these students were able to continue their diligent preparation for the statewide ''We the People'' competition, and win. The West Warwick High School students will be joining 1,200 others from across the United States.

On behalf of all Rhode Islanders, I would like to congratulate the following students: Carly Alvernaz, Linzy Alvernaz, Jennifer Bartley, Stacy Costa, Sara Dalton, Ryan Desrochers, Megan Dougherty, Jillian Drummond, Elizabeth Duggan, Katheryn Flynn, Ashley Iasimone, Thomas Kelly, Paris Legault, Paul Piacitelli, Daniel Politelli, Lisa Powers, Ali Shihadeh, Nicholas St. Germain, Christen Varin, Russell Venditto, and Meaghan Whitford. In addition, I would like to acknowledge their teacher Marc Leblanc, the Rhode Island State coordinator, Michael Trofi, and the district coordinator, Henry Cote, for their dedication to this program over the years. I wish the students from West Warwick High School the best of luck at the ''We the People'' national finals.•

COMMUNITY HERO

• Mr. SMITH. Madam President, I rise to salute a World War II veteran from my home State of Oregon. Today, I want to recognize the life and contributions of Hazel Ying Lee, a courageous woman who died tragically in the line of duty.

Hazel Ying Lee was born in Portland, OR in 1912. At the tender age of 19, Ms. Lee piloted her first flight. The same year, she earned her commercial pilot's license at a time when fewer than 1

percent of American pilots were women.

When she was 20 years old, Ms. Lee traveled to China to contribute to the war effort. At the time, women were not allowed to join the Chinese air Force, so Ms. Lee worked to open a school in Canton during that time and worked for an information group.

In 1938, Ms. Lee returned to the United States just prior to the Japanese invasion of China. Because of her previous flight training, Ms. Lee was able to enter the Women's Flying Training Detachment, WFTD, and trained to fly a range of military planes. Ms. Lee was one of 112 proud women graduates from the fourth WFTD. Upon her completion of the program in 1943, Ms. Lee joined the Women Airforce Service Pilots, WASP, an elite group that made invaluable contributions to the war effort.

Ms. Lee was assigned to the Air Transport Command's 3rd Ferrying Squadron at Romulus Army Air Base in Michigan. From this post, it was her duty to transport aircraft to military positions from the factories around the United States. These women were responsible for the transportation of over 70 different kinds of aircraft, all critically needed for the war.

While at Romulus Army Air Base, Ms. Lee attended Officer Candidate School in preparation to become a commissioned officer. Upon the completion of that training, Ms. Lee was one of a very select group of women qualified to fly all the Army's single engine fighter aircraft.

In November of 1944, Ms. Lee went to the Bell aircraft factory at Niagara Falls, NY, to pick up a new fighter plane to be flown to Great Falls, MT. Bad weather complicated her trip and caused delays in landing in Montana. Ms. Lee was cleared to land by the control tower while another plane was descending to land on the same runway. As both planes lowered to the darkened landing strip, the control tower radioed for them to pull up. Due to a radio malfunction, the two aircraft collided and crashed onto the runway. Ms. Lee sustained severe burns and trauma in the resulting fire. Heroic efforts were made to save her, but, sadly, Hazel Ying Lee died of her injuries on November 25, 1944.

Ms. Lee made a selfless commitment to her country in a time of great peril, ultimately giving her life to her duty. It is with humble respect and praise that I offer my recognition today to Hazel Ying Lee, in hopes she will always be remembered for her bravery.●

RYAN QUARLES

● Mr. BUNNING. Madam President, I rise today to honor and pay tribute to Mr. Ryan Quarles from Scott County, who was chosen as one of the 10 national winners of the U.S. Department of Agriculture Risk Management Agency's sponsored writing contest for Future Farmers of America members.

Mr. Quarles was chosen from 140 entries from across the Nation. Contestants were required to write a 1,000-word essay on ''Risk Management For Setting Your Supervised Agricultural Experience Program.'' Mr. Quarles has shown a commitment to excellence deserving of such a distinguished honor. Mr. Quarles' essay is a shining example of what you can achieve if you work hard and pursue your goals. His example should be followed by students across Kentucky.

This young man has demonstrated his amazing comprehension of risk management principles and application of various risk management tools and strategies in his essays. I am proud of this young man's dedication to Kentucky agriculture, the Future Farmers of America, and his goals for educational excellence. The citizens from Scott County are fortunate to call Ryan Quarles one of their own. I also want to congratulate his advisor, along with his peers, faculty, administrators, and family for their support and sacrifices they've made to help him meet this achievement and make his dreams a reality.●

JOHN HENDRICKS

● Mr. BUNNING. Madam President, I rise today to honor and pay tribute to Mr. John Hendricks from Clark County, who was chosen as one of the 10 national winners of the U.S. Department of Agriculture Risk Management Agency's sponsored writing contest for Future Farmers of America members.

Mr. Hendricks was chosen from 140 entries from across the Nation. Contestants were required to write a 1,000-word essay on ''Risk Management For Setting Your Supervised Agricultural Experience Program.'' Mr. Hendricks has shown a commitment to excellence deserving of such a distinguished honor. Mr. Hendrick's essay is a shinning example of what you can achieve if you work hard and pursue your goals. His example should be followed by students across Kentucky.

This young man has demonstrated his amazing comprehension of risk management principles and application of various risk management tools and strategies in his essays. I am proud of this young man's dedication to Kentucky agriculture, the Future Farmers of America, and his goals for educational excellence. The citizens from Clark County are fortunate to call John Hendricks one of their own. I also want to congratulate his advisor, along with his peers, faculty, administrators, and family for their support and sacrifices they've made to help him meet this achievement and make his dreams a reality.●

HOOTIE JOHNSON

● Mr. HOLLINGS. Madam President, I have known Hootie Johnson for the past 50 years and yes, there is no one more well thought of, more popular, more respected in South Carolina.

A star football hero in college, he came on as a natural leader in the banking business. He is one with this so-called vision, leading the way to integration, opportunity and, yes, as head of Augusta National having women play the course. I have read extreme nonsense from every angle critical of Hootie and withheld public comment because I knew coming from the State it would lack a certain amount of credibility. Now, Sally Jenkins in this morning's Washington Post has responded for me in her column ''Hootie and the Blowhard''. I ask that it be printed in the RECORD.

The article follows:

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Apr. 11, 2003]

BURK IS WAY OFF COURSE

(By Sally Jenkins)

AUGUSTA, GA.—Dorein Vanderzahm poked her umbrella into the red clay Georgia field and announced, definitively, ''Fire ants.'' If you stooped down and examined the dirt, there they were, swarming over the crabgrass acre where Martha Burk will hold her protest against Augusta National, ready to blister ankles. ''I think they may come as an additional surprise to her,'' Vanderzahm said. Burk is liable to be surprised by many things here, given her reliance on old southern caricatures, the redneck sheriff with the star-shaped badge, the mush-mouthed Bubba, and the southern magnolia who swings her umbrella soft as a hanging fern. That's why Burk's campaign against Augusta National's all-male membership has been greeted with fire-ant hostility by many here, and why even the women of Augusta find it ultimately weak, and wrong: because it's based on stereotype and mischaracterization.

If you're a white male of a certain age and luckless enough to speak with a twang, then apparently you must be a tobacco-spitting good old boy, no matter what your actual record. For months now, Burk has done her best to make Hootie Johnson, the honey-voiced president of Augusta National, out to be a sexist hick or worse. What's more, some of the media has shamelessly perpetuated the image, most notably the New York Times, which has relentlessly excoriated him while until recently giving Johnson's notable career as a civil rights activist and women's advocate short shrift.

The truth about Johnson, a banker from South Carolina, is that he's a longtime progressive who has fought long and hard to integrate South Carolina's schools, banks, businesses and politics, and launched the careers of scores of women and minorities. He has also fought to remove the Confederate flag from the statehouse. He is nobody's chauvinist, or bigot, or good old boy. And yet when a Ku Klux Klan crank applied for a permit to protest at Augusta, Burk actually said, and got away with it, ''Augusta National should not be shocked by the KKK's endorsement. They have behaved in a manner that attracts this type of support.''

This smearing of southern white men has eroded any inclination to listen to Burk around here, and it's a kind of discourse that would be considered universally despicable if it was turned on women or minorities. People have been taking roundhouse swings at privileged white men for a long time; that's nothing new. But Burk is not just fire-breathing; she is inaccurate. Burk seems not to have done any homework on who Hootie is, what he has done or what The Masters

is—she actually suggested they move the tournament to a different course. She is so wrong about so many things it's tough to take her seriously on anything about which she might be right.

The fact is that Johnson defies category, and for that matter so does Dorein Vanderzahm. Vanderzahm doesn't agree with Burk—''not a bit,'' she said.

Vanderzahm was born and raised in Augusta—she knows about the fire ants because she used to cut through the field—and it would be convenient for Burk if Vanderzahm was a downtrodden southern housewife or a mindless belle, but she's not. She's a physician, who disagrees with Burk on principle, and because she finds the whole campaign silly. ''I think she has an overblown sense of importance,'' Vanderzahm says.

Burk also has portrayed local law enforcement as heavies, a bunch of Bull Connors doing the bidding of rich men, because they won't allow her to protest in front of the main entrance to the club. They cite safety and traffic reasons—reasons perfectly legitimate to anyone who has ever tried to negotiate the choked intersection. Deputy sheriff Johnny Whittle sat in his black-and-white squad car, parked under an old tree in the field of crabgrass where Burk will protest. He will be in charge of keeping the peace at Burk's protest. A heavy badge was pinned on his uniform pocket, and his shirt collar was buttoned tight, above which loomed a face that was more John Wayne than John Wayne's. ''Oh, we're used to it,'' he said. ''We've been stereotyped our whole lives. Everybody says watch out for the Georgia police, but we try to get out of locking people up.''

Whittle expects nine groups of protestors to show up Saturday, including the Burk flotilla, the Rainbow/PUSH Coalition, the New Black Panther Party, a hilarious anti-Burkist faction called People Against Stupid Protests, and the lone self-described KKK member, whom Whittle simply refers to as ''that person, for lack of a better word.'' Whittle adds, ''None of us agree with him, but we have to protect him.'' Not that Whittle agrees with Burk, either.

''They don't let me in that club,'' Whittle said. ''Are they discriminating against me, too? To be honest, I don't want to go in there and set down where they smoke those stinking cigars. It just seems like there's a lot of better things to be done in the cause for women.''

Burk filed suit complaining that by being relegated to the field, she will miss her audience. She lost the suit. Actually, the field is centrally located across the street from the course; anyone going to the tournament, or for that matter making a run to Eckerd, can't miss it. Thursday, even before she arrived and on a day when play was cancelled, people rolled down car windows as they passed the field, and shouted, ''Say no to Martha!'' Kiosks sold ''I Support Hootie'' buttons, as well as golf balls that said, ''Drive Burk Out'' and T-shirts that said ''The Burk Stops Here.'' What Burk should worry about is not whether the audience will miss her, but whether she has lost her audience altogether.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 9:31 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the Concurrent resolution (H. Con. Res. 95) establishing the congressional budget for the United States Government for fiscal year 2004 and setting forth appropriate budgetary levels for fiscal years 2003 and 2005 through 2013.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

S. 380. An act to amend chapter 83 of title 5, United States Code, to reform the funding of benefits under the Civil Service Retirement System for employees of the United States Postal Service, and for other purposes.

H.R. 273. An act to provide for the eradication and control of nutria in Maryland and Louisiana.

The enrolled bills were signed subsequently by the President pro tempore (Mr. STEVENS).

At 2:59 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1770. An act to provide benefits an other compensation for certain individuals with injuries resulting from administration of smallpox countermeasures, and for other purposes.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 1584) to implement effective measures to stop trade in conflict diamonds, and for other purposes.

ENROLLED BILLS SIGNED

The 6:54 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 151. An act to prevent child abduction and sexual exploitation of children, and for other purposes.

H.R. 1505. An act to designate the facility of the United States Postal Service located at 2127 Beatties Ford Road in Charlotte, North Carolina, as the ''Jim Richardson Post Office''.

H.R. 1584. An act to implement effective measures to stop trade in conflict diamonds, and for other purposes.

The enrolled bills were signed subsequently by the President pro tempore (Mr. STEVENS).

At 8:05 p.m., a message from the House of Representatives, delivered by Mr. Rota, one of its clerks, announced that the House has passed the following joint resolution:

H. J. Res. 51. A joint resolution increasing the statutory limit on the public debt.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, April 11, 2003, she had presented to the President of the United States the following enrolled bill:

S. 380. A act to amend chapter 83 of title 5, United States Code, to reform the funding of benefits under the Civil Service Retirement System for employees of the United States Postal Service, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary, without amendment and with a preamble:

S. Res. 108. A resolution designating the week of April 21 through April 27, 2003, as ''National Cowboy Poetry Week''.

S. Res. 111. A resolution designating April 30, 2003, as ''Dia de los Ninos: Celebrating Young Americans'', and for other purposes.

S.J. Res. 8. A joint resolution expressing the sense of Congress with respect to raising awareness and encouraging prevention of sexual assault in the United States and supporting the goals and ideals of National Sexual Assault Awareness and Prevention Month.

FINANCIAL REPORTS

The following Federal Campaign Contribution Reports were submitted by Mr. Lugar for the Committee on Foreign Relations:

Joseph LeBaron, to be Ambassador to the Islamic Republic of Mauritania.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: Joseph Evan LeBaron.

Post: Mauritania.

Contributions, Amount, Date, and Donee:

1. Self, none.

2. Spouse: Elinor R. LeBaron, none.

3. Children and Spouses: Petra Drake LeBaron, none.

4. Parents: Carlos S. LeBaron, deceased; Truellen LeBaron McCracken, deceased. (Step) Parents: Lawrence McCracken, none.

5. Grandparents: Edgar M. LeBaron, deceased; Zenobia H. LeBaron, deceased; Hyrum J. Davis, deceased; Berta B. Davis, deceased.

6. Brothers and Spouses: C. Stephen LeBaron, less than $100, 2001, Republican National Committee; Marjorie L. LeBaron (spouse), none; Daniel McCracken, none; Cindy McCracken (spouse), none.

7. Sisters and Spouses: Joyce I. LeBaron, none; Veida Wissler, none; Steve Wissler (spouse), none; Elma M. Witty, none; Ben Witty (spouse), none; Phyllis McCracken, none.

Reno L. Harnish, to be Ambassador to the Republic of Azerbaijan.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: Reno L. Harnish, III.

Post: U.S. Embassy Baku.

Contributions, Amount, Date, and Donee:

1. Self: Reno L. Harnish, III, none.

2. Spouse: Leslie A. Harnish, none.

3. Children and Spouses: Brook E. Harnish, none; Reno L. Harnish, IV, none.

4. Parents: Reno L. Harnish, Jr., none; Kathryn B. Harnish, none.

5. Grandparents: Reno L. Harnish, Sr., deceased; Martha Harnish, deceased; Phillip Wendel, deceased; Martha Wendel, deceased.

6. Brothers and Spouses: Christopher Harnish, none; Karen Harnish, none.

7. Sisters and Spouses: Karen M. Harnish, none; Heidi Cascio, none; Nick Cascio, none.

Heather M. Hodges, to be Ambassador to Moldova.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in the report is complete and accurate.)

Contributions, Amount, Date, and Donee:

1. Self, none.

2. Spouse: N/A.

3. Children and Spouses: N/A.

4. Parents: Aiden and Frances Hodges, deceased.

5. Grandparents: Joseph and Effy Hodges, deceased; Herman and Susana Ruppelt, deceased.

6. Brothers and Spouses: Allan J. Hodges, none.

7. Sisters and Spouses: N/A.

Gregory W. Engle, to be Ambassador to the Togolese Republic.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: Gregory William Engle.

Post: U.S. Ambassador to Togo.

Contributions, Amount, Date, and Donee:

1. Self, 0.

2. Spouse, 0.

3. Children and Spouses: Jessica Renee Engle, 0; Ryan Travis Engle, 0.

4. Parents: George W. Engle (deceased), 0; Norma W.S. Engle, 0.

5. Grandparents: Laun C. & Bertha Smith (deceased), 0; Grover & Ruth Engle (deceased), 0.

6. Brothers and Spouses: Charles S. Engle and Bridget Engle, 0.

7. Sisters and Spouses: Deborah L. Shank and Bill Tatum (separated), 0.

Eric S. Edelman, to be Ambassador to the Republic of Turkey.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: Eric Steven Edleman.

Post: Turkey.

Contributions, Amount, Date, and Donee:

1. Self, none.

2. Spouse: Patricia D. Edelman, $25.00, Nov. 2001, Gary Pash, Dem. Candidate for Stafford Co. Supervisor.

3. Children and Spouses: Alexander, Stephanie, Terence, Robert, none.

4. Parents: Milton and Frederica Edelman, none.

5. Grandparents: Abraham and Molly Edelman (deceased); Abraham and Cecile Aubry (deceased), none.

6. Brothers and Spouse: Marc Edelman and Luanne Fisi, $5,500.00, 1998, Jeff Harrison, City Council. (Luanne), $500.00, 1998, Pat Hallisey Mayoral Election-League City. (Marc), $500.00, 1998, Pat Hallisey Mayoral Election-League City; $1,500.00, 2000, Nick Lampson, Congress; $500.00, 2000, Thomas Cones, City Council; $500.00, 2001, Thomas Cones, City Council; $500.00, 2001, Ken Clark, County Commissioner.

7. Sisters and Spouses: Alexandra Edelman, none.

Wayne E. Neill, to be Ambassador to the Republic of Benin.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: Wayne Edward Neill, II.

Post: Ambassador to Benin.

Contributions, Amounts, Date, and Donee:

1. Self: Wayne Edward Neill, II, 0.

2. Spouse: Doris Orlovic Neill, 0.

3. Children and Spouses: Veronica Faith Neill, Stephanie Julia Neill, Wayne Edward Neill, III, 0.

4. Parents: Wayne Edward Neill I, Valda Darlene Neill, 0.

5. Grandparents: Anna Borgas, John Borgas, decease, 0; Clarence Neill, deceased, Zola Neill, deceased, 0.

6. Brothers and Spouses: Donald Floyd Neill, Gregory Arthur Neill, deceased, 0; Ronald Roy Neill, deceased, 0.

7. Sisters and Spouses: Renee Rachelle Neill, 0.

Stephen D. Mull, to be Ambassador to the Republic of Lithuania.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: Stephen D. Mull.

Post: Lithuania.

Contributions, Amounts, Date, and Donee:

1. Self: 0.

2. Spouse: 0.

3. Children and Spouses: 0.

4. Parents: 0.

5. Grandparents: 0.

6. Brothers and Spouses: 0.

7. Sisters and Spouses: 0.

Ralph Frank, of Washington, to be Ambassador to the Republic of Croatia.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: Ralph Frank.

Post: Croatia.

Contributions, Amount, Date, and Donee:

1. Self, 0.

2. Spouse, 0.

3. Children and Spouses: Erik C. Frank, 0; Katy Frank, 0.

4. Parents: Jean C. Frank, deceased; Lloyd I. Frank, deceased.

5. Grandparents, deceased.

6. Brothers and Spouses: None.

7. Sisters and Spouses: None.

William M. Bellamy, to be Ambassador to the Republic of Kenya.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: William Markley Bellamy.

Post: Ambassador to Kenya.

Contributions, Amount, Date, and Donee:

1. Self, none.

2. Spouse: Pamela Sterne Bellamy, none.

3. Children and Spouses: Emma Chase Bellamy (17), none; William E.K. Bellamy (11), none.

4. Parents: William Webster Bellamy, none; Nelle Grimes Bellamy, none.

5. Grandparents: Joseph M. Bellamy, deceased; Opal S. Bellamy, deceased; Clyde Grimes, deceased; Florence S. Grimes, deceased.

6. Brothers and Spouses: Edward W. Bellamy (unmarried): None.

7. Sisters and Spouses: Elizabeth A. Bellamy (unmarried): None.

Helen R. Meagher La Lime, to be Ambassador to the Republic of Mozambique.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: Helen Meagher La Lime.

Post: Ambassador to Mozambique.

Contributions, Amount, Date, and Donee:

1. Self: Helen La Lime, none.

2. Spouse: Robert La Lime, none.

3. Children and Spouses: Matthew La Lime, 13 yrs old, none; Adriana La Lime, 10 yrs old, none.

4. Parents: Mother: Teresa Meagher, none; Father: Ray Meagher, none–2002; none–2001; $20–2000, National Republic Committee; $20–2000, Peter London for Dade County Commissioner; none–1999; $20–1998, Florida National Republican Committee.

5. Grandparents: Deceased many years ago. Father's side: Edward Meagher, none; Teresa Meagher, none. Mother's side: Dean Leeming, none; Christina Bunsen Perez, none.

6. Brothers and Spouses: none.

7. Sisters and Spouses: Rita Meagher, single, none; Elizabeth Meagher, single, none.

Pamela J.H. Slutz, to be Ambassador to Mongolia.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: Pamela J.H. Slutz.

Post: Ambassador to Mongolia.

Contributions, Amount, Date, and Donee:

1. Self, none.

2. Spouse, $400, 2000, Republican Natl. Comm.

3. Children and Spouses: Daniel & Tammy Dutch, none; Shawn Deutch, $20, 2000, Green Party Natl. Comm.

4. Parents: Robert & Rose Slutz, $250, 2/18/99, Patsy Kurth; $220, 6/21/00, Patsy Kurth; $500, 1/01/02, Indian R., FL Demo. Comm.; $50, 2/12/02, Emily's List; $100, 3/17/02, Janet Reno; $100, 5/03/02, Janet Reno; $250, 5/30/02, James Tso; $50, 6/09/02, Paul Wellstone; $200, 10/1/02, Demo. Senate Camp. Comm.; $250, 10/4/02, James Tso.

5. Grandparents: Robert and Ethel Slutz, deceased; Rudolph and Elsie Vierling deceased.

6. Brothers and Spouses; Chris & Avery Brighton, none; Robert & Maya Slutz, none.

7. Sisters and Spouses: Marjorie & Robert Davis, $35, 1998, Repub. Natl. Comm.; $20, 1999, Republ. Natl. Comm.; $35, 2000, Republ. Natl. Comm.; $35, 2001, Republ. Natl. Comm.; $35, 2002, Republ. Natl. Comm.

Stephen M. Young, to be ambassador to the Kyrgyz Republic.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: Stephen Markley Young.

Post: Kyrgystan.

Contributions, Amount, Date, and Donee:

1. Self: Stephen M. Young, none.

2. Spouse: Barbara A. Finamore, none.

3. Children and Spouses: Michael N. Young (single), none; Rebecca A. Young (single), none; Patrick S. Young (single), none.

4. Parents: Mason J. Young Jr. (father), $20.00, Republican Nat. Cmte, 04/01; $35.00, Conservative Caucus, 10/01; $25.00, Judicial Watch, 07/02. Helen Bullard Young (mother), none.

5. Grandparents: Brig. Gen. Mason J. Young (deceased), none; Mary Wheeler Young (deceased), none; Dr. James North Evans (deceased), none; Helen Wall Evans (deceased), none.

6. Brothers and Spouses: Mason J. Young III (brother), $50.00, Kay B. Hutchison Senate, 10/98; $50.00, Republican Nat. Cmte, 1998; $50.00, Republican Nat. Cmte, 1999; $50.00, Rep. Nat. Senate Cmte, 10/98; $50.00, Rep. Nat. Senate Cmte, 10/00; $100.00, Orin Hatch Prez. Exp. Cmte, 10/99; $100.00, George Bush Prez. Campaign, 2000; $100.00, George Allen Senate, 10/02; $35.00, Katherine Harris House, 07/02. Carolyn Lane Young (spouse), none.

7. Sisters and Spouses: Joanne W. Young (sister), $500.00, Baker/Hostetler PAC, 11/99; $1000.00, McCain INC., 02/00; $1000.00, Republican Nat. Cmte, 10/00; $500.00, Baker/Hostetler PAC, 12/00; $250.00, ''The Wish List'', 03/02. Bruce E. Foreman (spouse), none.

NOMINATIONS DISCHARGED AND CONFIRMED

On request by Mr. SUNUNU and by unanimous consent, it was

Ordered, That the following nominations be discharged from the Committee on Health, Education, Labor, and Pensions and be considered en bloc:

LEGAL SERVICES CORPORATION

Florentino Subia, of Texas, to be a Member of the Board of Directors of the Legal Services Corporation for a term expiring July 13, 2004, vice Edna Fairbanks-Williams, term expired.

Frank B. Strickland, of Georgia, to be a Member of the Board of Directors of the Legal Services Corporation for a term expiring July 13, 2004, vice John N. Erlenborn, term expired.

Michael McKay, of Washington, to be a Member of the Board of Directors of the Legal Services Corporation for a term expiring July 13, 2004, vice Nancy Hardin Rogers, term expired.

Robert J. Dieter, of Colorado, to be a Member of the Board of Directors of the Legal Services Corporation for a term expiring July 13, 2005, vice F. William McCalpin, term expired.

Herbert S. Garten, of Maryland, to be a Member of the Board of Directors of the Legal Services Corporation for a term expiring July 13, 2005, vice Douglas S. Eakley, term expired.

Thomas R. Meites, of Illinois, to be a Member of the Board of Directors of the Legal Services Corporation for a term expiring July 13, 2004, vice LaVeeda Morgan Battle, term expired.

On further request by Mr. SUNUNU and by unanimous consent, it was

Ordered, That the nominations confirmed en bloc; that the motion to reconsider en bloc be laid on the table; that the President be immediately notified of the confirmation of these nominations; and that the Senate return to legislative session.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. GREGG (for himself, Mr. REED, Mr. FRIST, Mr. KENNEDY, Mr. ENZI, Mr. JEFFORDS, Mr. ALEXANDER, Mr. EDWARDS, Mr. DEWINE, Mrs. CLINTON, Ms. COLLINS, Mr. COCHRAN, Mr. SMITH, Mr. DODD, and Mr. SCHUMER):

S. 888. A bill to reauthorize the Museum and Library Services Act, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CORZINE (for himself, Mrs. CLINTON, and Mr. LAUTENBERG):

S. 889. A bill to accord honorary citizenship to the alien victims of the September 11, 2001, terrorist attacks against the United States and to provide for the granting of citizenship to the alien spouses and children of certain victims of such attacks; to the Committee on the Judiciary.

By Mrs. MURRAY (for herself, Ms. COLLINS, and Mr. KENNEDY):

S. 890. A bill to amend the Individuals with Disabilities Education Act to provide grants to State educational agencies to establish high cost funds from which local educational agencies are paid a percentage of the costs of providing a free appropriate public education to high need children and other high costs associated with educating children with disabilities, and for other purposes; to the Committee on Finance.

By Mr. JOHNSON:

S. 891. A bill to provide substantial reductions in the price of prescription drugs for medicare beneficiaries; to the Committee on Finance.

By Mr. JOHNSON:

S. 892. A bill to provide for substantial reductions in the price of prescription drugs for medicare beneficiaries; to the Committee on Finance.

By Mr. SANTORUM (for himself, Mr. KERRY, Mr. ENSIGN, Ms. MIKULSKI, Mr. SMITH, Mrs. MURRAY, Mr. HATCH, Mr. LIEBERMAN, Mr. BROWNBACK, Mr. CORZINE, and Mrs. CLINTON):

S. 893. A bill to amend title VII of the Civil Rights Act of 1964 to establish provisions with respect to religious accommodation in employment, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. WARNER (for himself, Mr. ALLEN, Mr. BURNS, Mr. CORZINE, Mr. ENZI, Mr. MILLER, Mr. ROBERTS, and Mr. THOMAS):

S. 894. A bill to require the Secretary of the Treasury to mint coins in commemoration of the 230th Anniversary of the United States Marine Corps, and to support construction of the Marine Corps Heritage Center; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. NICKLES (for himself and Mrs. LINCOLN):

S. 895. A bill to amend the Internal Revenue Code of 1986 to include wireless telecommunications equipment in the definition of qualified technological equipment for purposes of determining the depreciation treatment of such equipment; to the Committee on Finance.

By Mrs. MURRAY (for herself and Ms. CANTWELL):

S. 896. A bill to establish a public education and awareness program relating to emergency contraception; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CORNYN:

S. 897. A bill to amend the Immigration and Nationality Act to change the requirements for naturalization through service in the Armed Forces of the United States, and for other purposes; to the Committee on the Judiciary.

By Mr. McCONNELL (for himself and Mr. BUNNING):

S. 898. A bill to authorize the Secretary of the Interior to acquire Fern Lake and the surrounding watershed in the States of Kentucky and Tennessee for addition to Cumberland Gap National Historical Park, and for other purposes; to the Committee on Energy and Natural Resources.

By Mrs. HUTCHISON (for herself and Mr. BAYH):

S. 899. A bill to amend title XVIII of the Social Security Act to restore the full market basket percentage increase applied to payments to hospitals for inpatient hospital services furnished to medicare beneficiaries, and for other purposes; to the Committee on Finance.

By Mr. BURNS:

S. 900. A bill to convey the Lower Yellowstone Irrigation Project, the Savage Unit of the Pick-Sloan Missouri Basin Program, and the Intake Irrigation Project to the pertinent irrigation districts; to the Committee on Energy and Natural Resources.

By Mr. GREGG (for himself, Mr. ENZI, and Mr. COCHRAN):

S. 901. A bill to make technical amendments to the Higher Education Act of 1965, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Ms. LANDRIEU:

S. 902. A bill to declare, under the authority of Congress under Article I, section 8, of the Constitution to ''provide and maintain a Navy'', a national policy for the naval force structure required in order to ''provide for the common defense'' of the United States throughout the 21st century; to the Committee on Armed Services.

By Ms. LANDRIEU:

S. 903. A bill to amend the Internal Revenue Code of 1986 to allow employers in renewal communities to qualify for the renewal community employment credit by employing residents of certain other renewal communities; to the Committee on Finance.

By Mrs. LINCOLN (for herself and Mr. PRYOR):

S. 904. A bill to amend the Federal Deposit Insurance Act to clarify the scope of provisions relating to applicable rates of interest and other charge limitations; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. ROCKEFELLER (for himself, Ms. SNOWE, Mr. BAUCUS, Mr. HATCH, Mr. CONRAD, Mr. KENNEDY, Ms. STABENOW, Mr. BREAUX, Mrs. MURRAY, Mr. DAYTON, Mr. LEAHY, Mr. SCHUMER, and Mr. BURNS):

S. 905. A bill to amend the Internal Revenue Code of 1986 to provide a broadband Internet access tax credit; to the Committee on Finance.

By Ms. STABENOW:

S. 906. A bill to provide for the certification of programs to provide uninsured employees of small business access to health coverage, and for other purposes; to the Committee on Finance.

By Mr. SPECTER:

S. 907. A bill to amend the Internal Revenue Code of 1986 to impose a flat tax only on individual taxable earned income and business taxable income, and for other purposes; to the Committee on Finance.

By Ms. COLLINS (for herself, Mr. DORGAN, Mr. SANTORUM, and Mr. CONRAD):

S. 908. A bill to establish the United States Consensus Council to provide for a consensus building process in addressing national public policy issues, and for other purposes; to the Committee on Governmental Affairs.

By Ms. SNOWE:

S. 909. A bill to provide State and local governments with flexibility in using funds made available for homeland security activities; to the Committee on Environment and Public Works.

By Mr. AKAKA (for himself, Mr. CARPER, and Mr. LAUTENBERG):

S. 910. A bill to ensure the continuation of non-homeland security functions of Federal agencies transferred to the Department of Homeland Security; to the Committee on Governmental Affairs.

By Ms. LANDRIEU (for herself and Mr. CORZINE):

S. 911. A bill to amend the Internal Revenue Code of 1986 to provide a rebate of up to $765 to individuals for payroll taxes paid in 2001, to provide employers with an income tax credit of up to $765 for payroll taxes paid during the payroll tax holiday period, and for other purposes; to the Committee on Finance.

By Mr. SANTORUM (for himself and Mr. SPECTER):

S. 912. A bill to establish the Oil Region National Heritage Area; to the Committee on Energy and Natural Resources.

By Mr. SANTORUM:

S. 913. A bill to amend the Federal Deposit Insurance Act to provide for the return of excess amounts in Federal deposit insurance funds to financial institutions for use in their communities, with such distributions allocated according to the historical basis of contributions made to the funds by such institutions; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SMITH (for himself, Mr. BREAUX, and Mr. HATCH):

S. 914. A bill to amend the Internal Revenue Code of 1986 to apply look-thru rules for purposes of the foreign tax credit limitation to dividends from foreign corporations not controlled by a domestic corporation; to the Committee on Finance.

By Mr. ALEXANDER (for himself, Mr. LEVIN, Mr. WARNER, and Mr. BINGAMAN):

S. 915. A bill to authorize appropriations for fiscal years 2004, 2005, 2006, 2007, and 2008 for the Department of Energy Office of Science, to ensure that the United States is the world leader in key scientific fields by restoring a healthy balance of science funding, to ensure maximum use of the national user facilities, and to secure the Nation's supply of scientists for the 21st century, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BENNETT:

S. 916. A bill to establish the National Mormon Pioneer Heritage Area in the State of Utah, and for other purposes; to the Committee on Energy and Natural Resources.

By Ms. MURKOWSKI:

S. 917. A bill to amend title 23, United States Code, to require the use of a certain minimum amount of funds for winter motorized access trails; to the Committee on Environment and Public Works.

By Mr. FEINGOLD (for himself, Mr. LEAHY, Mr. REID, Mr. HAGEL, Mr. JOHNSON, Mr. LIEBERMAN, Mr. SARBANES, Mr. DODD, Mr. KOHL, and Mr. JEFFORDS):

S. 918. A bill to require the Secretary of Defense to implement fully by September 30, 2004, requirements for additional Weapons of Mass Destruction Civil Support Teams; to the Committee on Armed Services.

By Mr. BURNS (for himself, Mr. ROCKEFELLER, Mr. DORGAN, Mr. CRAIG, Mr. BAUCUS, Mr. COLEMAN, and Mr. JOHNSON):

S. 919. A bill to amend title 49, United States Code, to enhance competition among and between rail carriers in order to ensure efficient rail service and reasonable rail rates, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. HATCH:

S. 920. A bill to provide for the appointment of additional Federal circuit and district judges, and for other purposes; to the Committee on the Judiciary.

By Mr. LAUTENBERG (for himself, Mrs. CLINTON, Mr. CORZINE, Mr. DASCHLE, Mr. LEAHY, Ms. MIKULSKI, Mr. SARBANES, and Mr. SCHUMER):

S. 921. A bill to authorize the Secretary of Homeland Security to make grants to reimburse State and local governments and Indian tribes for certain costs relating to the mobilization of Reserves who are first responder personnel of such governments or tribes; to the Committee on the Judiciary.

By Mr. REID (for himself, Mr. KENNEDY, Mr. DURBIN, Mr. BROWNBACK, Mr. COLEMAN, Mr. MCCAIN, Mr. SCHUMER, Mrs. BOXER, Mr. LEAHY, and Mr. HAGEL):

S. 922. A bill to change the requirements for naturalization through service in the Armed Forces of the United States, to extend naturalization benefits to members of the Selected Reserve of the Ready Reserve of a reserve component of the Armed Forces, to extend posthumous benefits to surviving spouses, children, and parents, and for other purposes; to the Committee on the Judiciary.

By Mr. KENNEDY (for himself, Mr. SMITH, Mr. DASCHLE, Mrs. CLINTON, Mr. REED, Mr. DURBIN, Mr. SARBANES, Mr. BINGAMAN, Mr. ROCKEFELLER, Mr. DODD, Mr. LEVIN, Mrs. MURRAY, Mr. HARKIN, Ms. MIKULSKI, Ms. CANTWELL, and Mr. SCHUMER):

S. 923. A bill to provide for additional weeks of temporary extended unemployment compensation, to provide for a program of temporary enhanced regular unemployment compensation, and for other purposes; to the Committee on Finance.

By Ms. MURKOWSKI:

S. 924. A bill to authorize the exchange of lands between an Alaska Native Village Corporation and the Department of the Interior, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SARBANES (for himself and Ms. MIKULSKI):

S.J. Res. 12. A joint resolution recognizing the Dr. Samuel D. Harris National Museum of Dentistry located at 31 South Greene Street in Baltimore, Maryland, as the official national museum of dentistry in the United States; to the Committee on Rules and Administration.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MCCONNELL:

S. Res. 121. A resolution honoring the life of Washington Post columnist and Atlantic Monthly editor Michael Kelly, and expressing the deepest condolences of the Senate to his family on his death; considered and agreed to.

By Mr. DASCHLE (for himself, Mr. HAGEL, Mr. JOHNSON, Mr. FRIST, Mr. KERRY, Mr. STEVENS, Mr. GRASSLEY, Mr. BOND, Mr. MCCAIN, Mr. REID, and Mr. ROCKEFELLER):

S. Con. Res. 36. A concurrent resolution expressing the sense of the Congress regarding the Blue Star Service Banner and the Gold Star; considered and agreed to.

By Mr. KENNEDY (for himself and Mr. KERRY):

S. Con. Res. 37. A concurrent resolution expressing support for the celebration of Patriot's Day and honoring the Nation's first patriots; considered and agreed to.

By Mr. FRIST:

S. Con. Res. 38. A concurrent resolution providing for a conditional adjournment or recess of the Senate and a conditional adjournment of the House of Representatives; considered and agreed to.

ADDITIONAL COSPONSORS

S. 13

At the request of Mr. KYL, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 13, a bill to provide financial security to family farm and small business owners by ending the unfair practice of taxing someone at death.

S. 160

At the request of Mr. BURNS, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 160, a bill to amend the Internal Revenue Code of 1986 to allow the expensing of broadband Internet access expenditures, and for other purposes.

S. 183

At the request of Mr. LEVIN, the names of the Senator from Minnesota (Mr. COLEMAN) and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of S. 183, a bill to address Securities and Exchange Commission authority to impose civil money penalties in administrative proceedings for violations of securities laws, and for other purposes.

S. 196

At the request of Ms. MURKOWSKI, her name was added as a cosponsor of S. 196, a bill to establish a digital and wireless network technology program, and for other purposes.

S. 196

At the request of Mr. JOHNSON, his name was added as a cosponsor of S. 196, supra.

S. 274

At the request of Mr. GRASSLEY, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. 274, a bill to amend the procedures

that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, and for other purposes.

S. 363

At the request of Ms. MIKULSKI, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 363, a bill to amend title II of the Social Security Act to provide that the reductions in social security benefits which are required in the case of spouses and surviving spouses who are also receiving certain Government pensions shall be equal to the amount by which two-thirds of the total amount of the combined monthly benefit (before reduction) and monthly pension exceeds $1,200, adjusted for inflation.

S. 384

At the request of Mr. REID, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 384, a bill to amend the Internal Revenue Code of 1986 to prevent corporate expatriation to avoid United States income taxes.

S. 451

At the request of Ms. SNOWE, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 451, a bill to amend title 10, United States Code, to increase the minimum Survivor Benefit Plan basic annuity for surviving spouses age 62 and older, to provide for a one-year open season under that plan, and for other purposes.

S. 457

At the request of Mr. LEAHY, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 457, a bill to remove the limitation on the use of funds to require a farm to feed livestock with organically produced feed to be certified as an organic farm.

S. 465

At the request of Mrs. MURRAY, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 465, a bill to amend title XVIII of the Social Security Act to expand medicare coverage of certain self-injected biologicals.

S. 491

At the request of Mr. REID, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from New York (Mrs. CLINTON) were added as cosponsors of S. 491, a bill to expand research regarding inflammatory bowel disease, and for other purposes.

S. 557

At the request of Ms. COLLINS, the names of the Senator from Alaska (Mr. STEVENS), the Senator from North Dakota (Mr. DORGAN), the Senator from Virginia (Mr. WARNER), the Senator from New York (Mr. SCHUMER) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 557, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income amounts received on account of claims based on certain unlawful discrimination and to allow income averaging for backpay and frontpay awards received on account of such claims, and for other purposes.

S. 560

At the request of Mr. CRAIG, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 560, a bill to impose tariff-rate quotas on certain casein and milk protein concentrates.

S. 573

At the request of Mr. FRIST, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. 573, a bill to amend the Public Health Service Act to promote organ donation, and for other purposes.

S. 595

At the request of Mr. HATCH, the names of the Senator from Idaho (Mr. CRAIG), the Senator from Kentucky (Mr. BUNNING) and the Senator from Georgia (Mr. MILLER) were added as cosponsors of S. 595, a bill to amend the Internal Revenue Code of 1986 to repeal the required use of certain principal repayments on mortgage subsidy bond financings to redeem bonds, to modify the purchase price limitation under mortgage subsidy bond rules based on median family income, and for other purposes.

S. 606

At the request of Mr. GREGG, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 606, a bill to provide collective bargaining rights for public safety officers employed by States or their political subdivisions.

S. 622

At the request of Mr. GRASSLEY, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 622, a bill to amend title XIX of the Social Security Act to provide families of disabled children with the opportunity to purchase coverage under the medicaid program for such children, and for other purposes.

S. 623

At the request of Mr. WARNER, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 623, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 695

At the request of Ms. COLLINS, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 695, a bill to amend the Internal Revenue Code of 1986 to increase the above-the-line deduction for teacher classroom supplies and to expand such deduction to include qualified professional development expenses.

S. 700

At the request of Mr. CAMPBELL, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 700, a bill to provide for the promotion of democracy, human rights, and rule of law in the Republic of Belarus and for the consolidation and strengthening of Belarus sovereignty and independence.

S. 703

At the request of Mr. HAGEL, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 703, a bill to designate the regional headquarters building for the National Park Service under construction in Omaha, Nebraska, as the ''Carl T. Curtis National Park Service Midwest Regional Headquarters Building''.

S. 750

At the request of Mr. MCCAIN, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 750, a bill to amend title II of the Social Security Act to increase the level of earnings under which no individual who is blind is determined to have demonstrated an ability to engage in substantial gainful activity for purposes of determining disability.

S. 761

At the request of Mrs. HUTCHISON, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 761, a bill to exclude certain land from the John H. Chafee Coastal Barrier Resources System.

S. 764

At the request of Mr. LEAHY, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 764, a bill to extend the authorization of the Bulletproof Vest Partnership Grant Program.

S. 767

At the request of Mr. SMITH, the name of the Senator from Alabama (Mr. SHELBY) was added as a cosponsor of S. 767, a bill to amend the Internal Revenue Code of 1986 to repeal the increase in the tax on social security benefits.

S. 774

At the request of Ms. SNOWE, the names of the Senator from Mississippi (Mr. COCHRAN) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 774, a bill to amend the Internal Revenue Code of 1986 to allow the use of completed contract method of accounting in the case of certain long-term naval vessel construction contracts.

S. 780

At the request of Mr. LOTT, the names of the Senator from Georgia (Mr. CHAMBLISS) and the Senator from Colorado (Mr. ALLARD) were added as cosponsors of S. 780, a bill to award a congressional gold medal to Chief Phillip Martin of the Mississippi Band of Choctaw Indians.

S. 803

At the request of Mr. NELSON of Nebraska, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 803, a bill to amend the Internal Revenue Code of 1986 to allow a deduction to members of the Armed

Forces reserves for contributions to savings accounts which may be used when the members are called to active duty.

S. 816

At the request of Mr. CONRAD, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 816, a bill to amend title XVIII of the Social Security Act to protect and preserve access of medicare beneficiaries to health care provided by hospitals in rural areas, and for other purposes.

S. 818

At the request of Mr. KERRY, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 818, a bill to ensure the independence and nonpartisan operation of the Office of Advocacy of the Small Business Administration.

S. 838

At the request of Ms. COLLINS, the names of the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from Ohio (Mr. DEWINE) were added as cosponsors of S. 838, a bill to waive the limitation on the use of funds appropriated for the Homeland Security Grant Program.

S. 852

At the request of Mr. DEWINE, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 852, a bill to amend title 10, United States Code, to provide limited TRICARE program eligibility for members of the Ready Reserve of the Armed Forces, to provide financial support for continuation of health insurance for mobilized members of reserve components of the Armed Forces, and for other purposes.

S. 863

At the request of Mr. EDWARDS, the names of the Senator from Vermont (Mr. JEFFORDS) and the Senator from Iowa (Mr. HARKIN) were added as cosponsors of S. 863, a bill to amend the Higher Education Act of 1965 to allow soldiers to serve their country without being disadvantaged financially by Federal student aid programs.

S. 874

At the request of Mr. TALENT, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 874, a bill to amend title XIX of the Social Security Act to include primary and secondary preventative medical strategies for children and adults with Sickle Cell Disease as medical assistance under the medicaid program, and for other purposes.

S. CON. RES. 26

At the request of Ms. LANDRIEU, the names of the Senator from Vermont (Mr. JEFFORDS) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. Con. Res. 26, a concurrent resolution condemning the punishment of execution by stoning as a gross violation of human rights, and for other purposes.

S. RES. 62

At the request of Mr. ENSIGN, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. Res. 62, a resolution calling upon the Organization of American States (OAS) Inter-American Commission on Human Rights, the United Nations High Commissioner for Human Rights, the European Union, and human rights activists throughout the world to take certain actions in regard to the human rights situation in Cuba.

S. RES. 111

At the request of Mr. HATCH, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. Res. 111, a resolution designating April 30, 2003, as ''Dia de los Ninos: Celebrating Young Americans'', and for other purposes.

S. RES. 118

At the request of Mrs. BOXER, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. Res. 118, a resolution supporting the goals of the Japanese American, German American, and Italian American communities in recognizing a National Day of Remembrance to increase public awareness of the events surrounding the restriction, exclusion, and internment of individuals and families during World War II.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GREGG (for himself, Mr. REED, Mr. FRIST, Mr. KENNEDY, Mr. ENZI, Mr. JEFFORDS, Mr. ALEXANDER, Mr. EDWARDS, Mr. DEWINE, Mrs. CLINTON, Ms. COLLINS Mr. COCHRAN, Mr. SMITH, Mr. DODD, and Mr. SCHUMER):

S. 888. A bill to reauthorize the Museum and Library Services Act, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. GREGG. Mr. President, today I rise to introduce legislation reauthorizing the Museum and Library Services Act. I am joined in this effort by Senator REED, Senator FRIST, Senator KENNEDY, Senator ENZI, and several other colleagues of mine. Libraries and museums serve as important cultural institutions in communities throughout our Nation, and this legislation will provide them with continued Federal support through innovative grant programs administered by the Institute of Museum and Library Services.

Specifically, this bill authorizes $250 million for libraries and $41.5 million for museums in 2004, and such sums as necessary in 2005 through 2009. In addition, it authorizes a doubling of the minimum state allotment under the Grants to State Library Agencies Program, up to $680,000. That provision, coupled with the expected increase in appropriations for 2004, will greatly benefit New Hampshire's libraries.

The bill contains a number of other important provisions. Recognizing the important of school libraries, it requires that the Institute's library activities be coordinated with the school library provisions of the No Child Left Behind Act. My bill also prohibits projects determined to be obscene from receiving Federal funds, requires the Institute to conduct analyses of the need for museum and library services and the effectiveness of funded projects in meeting those needs, consolidates the library and museum advisory boards into one entity, and prohibits funds appropriate under the Act's authority from being used for library or museum construction.

furthermore, this bill increases the indemnity limits in the Arts and Artifacts Indemnity Act, thereby facilitating the international exchange and display of works of art, books, rare documents and other published materials, artifacts, and films and other audiovisual media. This will ensure that people throughout the world are exposed to American culture and that our own citizens will have richer educational opportunities available as well.

I want to thank Senator REED for his leadership on this issue, as well as Senator FRIST, Senator KENNEDY, and Senator ENZI, particularly. Together we have crafted a bipartisan bill that will serve our museums and libraries well in the coming years. I expect to move this bill through the HELP Committee soon, and look forward to its speedy passage.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 888

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Museum and Library Services Act of 2003''.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
TITLE I—GENERAL PROVISIONS
Sec. 101. General definitions.
Sec. 102. Institute of Museum and Library Services.
Sec. 103. Director of the Institute.
Sec. 104. National Museum and Library Services Board.
Sec. 105. Awards; analysis of impact of services.
TITLE II—LIBRARY SERVICES AND TECHNOLOGY
Sec. 201. Purpose.
Sec. 202. Definitions.
Sec. 203. Authorization of appropriations.
Sec. 204. Reservations and allotments.
Sec. 205. State plans.
Sec. 206. Grants to States.
Sec. 207. National leadership grants, contracts, or cooperative agreements.
TITLE III—MUSEUM SERVICES
Sec. 301. Purpose.
Sec. 302. Definitions.
Sec. 303. Museum services activities.
Sec. 304. Repeals.
Sec. 305. Authorization of appropriations.
Sec. 306. Short title.

TITLE IV—NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE ACT
Sec. 401. Amendment to contributions.
Sec. 402. Amendment to membership.
TITLE V—MISCELLANEOUS PROVISIONS
Sec. 501. Amendments to Arts and Artifacts Indemnity Act.
Sec. 502. National children's museum.
Sec. 503. Conforming amendment.
Sec. 504. Technical corrections.
Sec. 505. Repeals.
Sec. 506. Effective date.

TITLE I—GENERAL PROVISIONS

SEC. 101. GENERAL DEFINITIONS.

Section 202 of the Museum and Library Services Act (20 U.S.C. 9101) is amended—

(1) by striking paragraph (1) and inserting the following:

''(1) DETERMINED TO BE OBSCENE.—The term 'determined to be obscene' means determined, in a final judgment of a court of record and of competent jurisdiction in the United States, to be obscene.'';

(2) by striking paragraph (4);

(3) by redesignating paragraph (3) as paragraph (5);

(4) by inserting after paragraph (2) the following:

''(3) FINAL JUDGMENT.—The term 'final judgment' means a judgment that is—

''(A) not reviewed by any other court that has authority to review such judgment; or

''(B) not reviewable by any other court.

''(4) INDIAN TRIBE.—The term 'Indian tribe' means any tribe, band, nation, or other organized group or community, including any Alaska native village, regional corporation, or village corporation (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), which is recognized by the Secretary of the Interior as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.''; and

(5) by adding at the end the following:

''(6) MUSEUM AND LIBRARY SERVICES BOARD.—The term 'Museum and Library Services Board' means the National Museum and Library Services Board established under section 207.

''(7) OBSCENE.—The term 'obscene' means, with respect to a project, that—

''(A) the average person, applying contemporary community standards, would find that such project, when taken as a whole, appeals to the prurient interest;

''(B) such project depicts or describes sexual conduct in a patently offensive way; and

''(C) such project, when taken as a whole, lacks serious literary, artistic, political, or scientific value.''.

SEC. 102. INSTITUTE OF MUSEUM AND LIBRARY SERVICES.

Section 203 of the Museum and Library Services Act (20 U.S.C. 9102) is amended—

(1) in subsection (b), by striking the last sentence; and

(2) by adding at the end the following:

''(c) MUSEUM AND LIBRARY SERVICES BOARD.—There shall be a National Museum and Library Services Board within the Institute, as provided under section 207.''.

SEC. 103. DIRECTOR OF THE INSTITUTE.

Section 204 of the Museum and Library Services Act (20 U.S.C. 9103) is amended—

(1) in subsection (e), by adding at the end the following: ''Where appropriate, the Director shall ensure that activities under subtitle B are coordinated with activities under section 1251 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6383).''; and

(2) by adding at the end the following:

''(f) REGULATORY AUTHORITY.—The Director may promulgate such rules and regulations as are necessary and appropriate to implement the provisions of this title.

''(g) APPLICATION PROCEDURES.—

''(1) IN GENERAL.—In order to be eligible to receive financial assistance under this title, a person or agency shall submit an application in accordance with procedures established by the Director by regulation.

''(2) REVIEW AND EVALUATION.—The Director shall establish procedures for reviewing and evaluating applications submitted under this title. Actions of the Institute and the Director in the establishment, modification, and revocation of such procedures under this Act are vested in the discretion of the Institute and the Director. In establishing such procedures, the Director shall ensure that the criteria by which applications are evaluated are consistent with the purposes of this title, taking into consideration general standards of decency and respect for the diverse beliefs and values of the American public.

''(3) TREATMENT OF PROJECTS DETERMINED TO BE OBSCENE.—

''(A) IN GENERAL.—The procedures described in paragraph (2) shall include provisions that clearly specify that obscenity is without serious literary, artistic, political, or scientific merit, and is not protected speech.

''(B) PROHIBITION.—No financial assistance may be provided under this title with respect to any project that is determined to be obscene.

''(C) TREATMENT OF APPLICATION DISAPPROVAL.—The disapproval of an application by the Director shall not be construed to mean, and shall not be considered as evidence that, the project for which the applicant requested financial assistance is or is not obscene.''.

SEC. 104. NATIONAL MUSEUM AND LIBRARY SERVICES BOARD.

The Museum and Library Services Act (20 U.S.C. 9101 et seq.) is amended—

(1) by redesignating section 207 as section 208; and

(2) by inserting after section 206 the following:

''SEC. 207. NATIONAL MUSEUM AND LIBRARY SERVICES BOARD.

''(a) ESTABLISHMENT.—There is established within the Institute a board to be known as the 'National Museum and Library Services Board'.

''(b) MEMBERSHIP.—

''(1) NUMBER AND APPOINTMENT.—The Museum and Library Services Board shall be composed of the following:

''(A) The Director.

''(B) The Deputy Director for the Office of Library Services.

''(C) The Deputy Director for the Office of Museum Services.

''(D) The Chairman of the National Commission on Libraries and Information Science.

''(E) 10 members appointed by the President, by and with the advice and consent of the Senate, from among individuals who are citizens of the United States and who are specially qualified by virtue of their education, training, or experience in the area of library services, or their commitment to libraries.

''(F) 10 members appointed by the President, by and with the advice and consent of the Senate, from among individuals who are citizens of the United States and who are specially qualified by virtue of their education, training, or experience in the area of museum services, or their commitment to museums.

''(2) SPECIAL QUALIFICATIONS.—

''(A) LIBRARY MEMBERS.—Of the members of the Museum and Library Services Board appointed under paragraph (1)(E)—

''(i) 5 shall be professional librarians or information specialists, of whom—

''(I) not less than 1 shall be knowledgeable about electronic information and technical aspects of library and information services and sciences; and

''(II) not less than 1 other shall be knowledgeable about the library and information service needs of underserved communities; and

''(ii) the remainder shall have special competence in, or knowledge of, the needs for library and information services in the United States.

''(B) MUSEUM MEMBERS.—Of the members of the Museum and Library Services Board appointed under paragraph (1)(F)—

''(i) 5 shall be museum professionals who are or have been affiliated with—

''(I) resources that, collectively, are broadly representative of the curatorial, conservation, educational, and cultural resources of the United States; or

''(II) museums that, collectively, are broadly representative of various types of museums, including museums relating to science, history, technology, art, zoos, botanical gardens, and museums designed for children; and

''(ii) the remainder shall be individuals recognized for their broad knowledge, expertise, or experience in museums or commitment to museums.

''(3) GEOGRAPHIC AND OTHER REPRESENTATION.—Members of the Museum and Library Services Board shall be appointed to reflect persons from various geographic regions of the United States. The Museum and Library Services Board may not include, at any time, more than 3 appointive members from a single State. In making such appointments, the President shall give due regard to equitable representation of women, minorities, and persons with disabilities who are involved with museums and libraries.

''(4) VOTING.—The Director, the Deputy Director of the Office of Library Services, the Deputy Director of the Office of Museum Services, and the Chairman of the National Commission on Library and Information Science shall be nonvoting members of the Museum and Library Services Board.

''(c) TERMS.—

''(1) IN GENERAL.—Except as otherwise provided in this subsection, each member of the Museum and Library Services Board appointed under subparagraph (E) or (F) of subsection (b)(1) shall serve for a term of 5 years.

''(2) INITIAL BOARD APPOINTMENTS.—

''(A) TREATMENT OF MEMBERS SERVING ON EFFECTIVE DATE.—Notwithstanding subsection (b), each individual who is a member of the National Museum Services Board on the date of enactment of the Museum and Library Services Act of 2003, may, at the individual's election, complete the balance of the individual's term as a member of the Museum and Library Services Board.

''(B) FIRST APPOINTMENTS.—Notwithstanding subsection (b), any appointive vacancy in the initial membership of the Museum and Library Services Board existing after the application of subparagraph (A), and any vacancy in such membership subsequently created by reason of the expiration of the term of an individual described in subparagraph (A), shall be filled by the appointment of a member described in subsection (b)(1)(E). When the Museum and Library Services Board consists of an equal number of individuals who are specially qualified in the area of library services and individuals who are specially qualified in the area of museum services, this subparagraph shall cease to be effective and the board shall be appointed in accordance with subsection (b).

''(C) AUTHORITY TO ADJUST TERMS.—The terms of the first members appointed to the Museum and Library Service Board shall be adjusted by the President as necessary to ensure that the terms of not more than 4 members expire in the same year. Such adjustments shall be carried out through designation of the adjusted term at the time of appointment.

''(3) VACANCIES.—Any member appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor of the member was appointed.

''(4) REAPPOINTMENT.—No appointive member of the Museum and Library Services Board who has been a member for more than 7 consecutive years shall be eligible for reappointment.

''(5) SERVICE UNTIL SUCCESSOR TAKES OFFICE.—Notwithstanding any other provision of this subsection, an appointive member of the Museum and Library Services Board shall serve after the expiration of the term of the member until the successor to the member takes office.

''(d) DUTIES AND POWERS.—

''(1) IN GENERAL.—The Museum and Library Services Board shall advise the Director on general policies with respect to the duties, powers, and authority of the Institute relating to museum and library services, including financial assistance awarded under this title.

''(2) NATIONAL AWARDS.—The Museum and Library Services Board shall advise the Director in making awards under section 209.

''(e) CHAIRPERSON.—The Director shall serve as Chairperson of the Museum and Library Services Board.

''(f) MEETINGS.—

''(1) IN GENERAL.—The Museum and Library Services Board shall meet not less than 2 times each year and at the call of the Director.

''(2) VOTE.—All decisions by the Museum and Library Services Board with respect to the exercise of its duties and powers shall be made by a majority vote of the members of the Board who are present and authorized to vote.

''(g) QUORUM.—A majority of the voting members of the Museum and Library Services Board shall constitute a quorum for the conduct of business at official meetings, but a lesser number of members may hold hearings.

''(h) COMPENSATION AND TRAVEL EXPENSES.—

''(1) COMPENSATION.—Each member of the Museum and Library Services Board who is not an officer or employee of the Federal Government may be compensated at a rate to be fixed by the President, but not to exceed the daily equivalent of the maximum annual rate of pay authorized for a position above grade GS–15 of the General Schedule under section 5108 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Museum and Library Services Board. Members of the Museum and Libraries Services Board who are full-time officers or employees of the Federal Government may not receive additional pay, allowances, or benefits by reason of their service on the Museum and Library Services Board.

''(2) TRAVEL EXPENSES.—Each member of the Museum and Library Services Board shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

''(i) COORDINATION.—The Director, with the advice of the Museum and Library Services Board, shall take steps to ensure that the policies and activities of the Institute are coordinated with other activities of the Federal Government.''.

SEC. 105. AWARDS; ANALYSIS OF IMPACT OF SERVICES.

The Museum and Library Services Act (20 U.S.C. 9101 et seq.) is amended by inserting after section 208 (as redesignated by section 104 of this Act) the following:

''SEC. 209. AWARDS.

''The Director, with the advice of the Museum and Library Services Board, may annually award National Awards for Library Service and National Awards for Museum Service to outstanding libraries and outstanding museums, respectively, that have made significant contributions in service to their communities.

''SEC. 210. ANALYSIS OF IMPACT OF MUSEUM AND LIBRARY SERVICES.

''From amounts described in sections 214(c) and 275(b), the Director shall carry out and publish analyses of the impact of museum and library services. Such analyses—

''(1) shall be conducted in ongoing consultation with—

''(A) State library administrative agencies;

''(B) State, regional, and national library and museum organizations; and

''(C) other relevant agencies and organizations;

''(2) shall identify national needs for, and trends of, museum and library services provided with funds made available under subtitles B and C;

''(3) shall report on the impact and effectiveness of programs conducted with funds made available by the Institute in addressing such needs; and

''(4) shall identify, and disseminate information on, the best practices of such programs to the agencies and entities described in paragraph (1).

''SEC. 210A. PROHIBITION ON USE OF FUNDS FOR CONSTRUCTION.

''No funds appropriated to carry out the Museum and Library Services Act, the Library Services and Technology Act, or the Museum Services Act may be used for construction expenses.''.

TITLE II—LIBRARY SERVICES AND TECHNOLOGY

SEC. 201. PURPOSE.

Section 212 of the Library Services and Technology Act (20 U.S.C. 9121) is amended by striking paragraphs (2) through (5) and inserting the following:

''(2) to promote improvement in library services in all types of libraries in order to better serve the people of the United States;

''(3) to facilitate access to resources in all types of libraries for the purpose of cultivating an educated and informed citizenry; and

''(4) to encourage resource sharing among all types of libraries for the purpose of achieving economical and efficient delivery of library services to the public.''.

SEC. 202. DEFINITIONS.

Section 213 of the Library Services and Technology Act (20 U.S.C. 9122) is amended—

(1) by striking paragraph (1); and

(2) by redesignating paragraphs (2), (3), (4), (5), and (6) as paragraphs (1), (2), (3), (4), and (5), respectively.

SEC. 203. AUTHORIZATION OF APPROPRIATIONS.

Section 214 of the Library Services and Technology Act (20 U.S.C. 9123) is amended—

(1) by striking subsection (a) and inserting the following:

''(a) IN GENERAL.—There are authorized to be appropriated to carry out this subtitle $250,000,000 for fiscal year 2004 and such sums as may be necessary for fiscal years 2005 through 2009.''; and

(2) in subsection (c), by striking ''3 percent'' and inserting ''3.5 percent''.

SEC. 204. RESERVATIONS AND ALLOTMENTS.

Section 221(b)(3) of the Library Services and Technology Act (20 U.S.C. 9131(b)(3)) is amended to read as follows:

''(3) MINIMUM ALLOTMENTS.—

''(A) IN GENERAL.—For purposes of this subsection, the minimum allotment for each State shall be $340,000, except that the minimum allotment shall be $40,000 in the case of the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

''(B) RATABLE REDUCTIONS.—Notwithstanding subparagraph (A), if the sum appropriated under the authority of section 214 and not reserved under subsection (a) for any fiscal year is insufficient to fully satisfy the requirement of subparagraph (A), each of the minimum allotments under such subparagraph shall be reduced ratably.

''(C) EXCEPTION.—

''(i) IN GENERAL.—Notwithstanding subparagraph (A), if the sum appropriated under the authority of section 214 and not reserved under subsection (a) for any fiscal year exceeds the aggregate of the allotments for all States under this subsection for fiscal year 2003—

''(I) the minimum allotment for each State otherwise receiving a minimum allotment of $340,000 under subparagraph (A) shall be increased to $680,000; and

''(II) the minimum allotment for each State otherwise receiving a minimum allotment of $40,000 under subparagraph (A) shall be increased to $60,000.

''(ii) INSUFFICIENT FUNDS TO AWARD ALTERNATIVE MINIMUM.—If the sum appropriated under the authority of section 214 and not reserved under subsection (a) for any fiscal year exceeds the aggregate of the allotments for all States under this subsection for fiscal year 2003 yet is insufficient to fully satisfy the requirement of clause (i), such excess amount shall first be allotted among the States described in clause (i)(I) so as to increase equally the minimum allotment for each such State above $340,000. After the requirement of clause (i)(I) is fully satisfied for any fiscal year, any remainder of such excess amount shall be allotted among the States described in clause (i)(II) so as to increase equally the minimum allotment for each such State above $40,000.

''(D) SPECIAL RULE.—

''(i) IN GENERAL.—Notwithstanding any other provision of this subsection and using funds allotted for the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau under this subsection, the Director shall award grants to the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau to carry out activities described in this subtitle in accordance with the provisions of this subtitle that the Director determines are not inconsistent with this subparagraph.

''(ii) AWARD BASIS.—The Director shall award grants pursuant to clause (i) on a competitive basis and after taking into consideration available recommendations from the Pacific Region Educational Laboratory in Honolulu, Hawaii.

''(iii) ADMINISTRATIVE COSTS.—The Director may provide not more than 5 percent of the funds made available for grants under this subparagraph to pay the administrative costs of the Pacific Region Educational Laboratory regarding activities assisted under this subparagraph.''.

SEC. 205. STATE PLANS.

Section 224 of the Library Services and Technology Act (20 U.S.C. 9134) is amended—

(1) in subsection (a)(1), by striking ''not later than April 1, 1997.'' and inserting ''once every 5 years, as determined by the Director.''; and

(2) in subsection (f)—

(A) by striking ''this Act'' each place such term appears and inserting ''this subtitle'';

(B) in paragraph (1)—

(i) by striking ''section 213(2)(A) or (B)'' and inserting ''section 213(1)(A) or (B)''; and

(ii) by striking ''1934,'' and all that follows through ''Act, may'' and inserting ''1934 (47 U.S.C. 254(h)(6)) may''; and

(C) in paragraph (7)—

(i) in the matter preceding subparagraph (A), by striking ''section:'' and inserting ''subsection:''; and

(ii) in subparagraph (D), by striking ''given'' and inserting ''applicable to''.

SEC. 206. GRANTS TO STATES.

Section 231 of the Library Services and Technology Act (20 U.S.C. 9141) is amended—

(1) in subsection (a), by striking paragraphs (1) and (2) and inserting the following:

''(1) expanding services for learning and access to information and educational resources in a variety of formats, in all types of libraries, for individuals of all ages;

''(2) developing library services that provide all users access to information through local, State, regional, national, and international electronic networks;

''(3) providing electronic and other linkages among and between all types of libraries;

''(4) developing public and private partnerships with other agencies and community-based organizations;

''(5) targeting library services to individuals of diverse geographic, cultural, and socioeconomic backgrounds, to individuals with disabilities, and to individuals with limited functional literacy or information skills; and

''(6) targeting library and information services to persons having difficulty using a library and to underserved urban and rural communities, including children (from birth through age 17) from families with incomes below the poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) applicable to a family of the size involved.''; and

(2) in subsection (b), by striking ''between the two purposes described in paragraphs (1) and (2) of such subsection,'' and inserting ''among such purposes,''.

SEC. 207. NATIONAL LEADERSHIP GRANTS, CONTRACTS, OR COOPERATIVE AGREEMENTS.

Section 262(a)(1) of the Library Services and Technology Act (20 U.S.C. 9162(a)(1)) is amended by striking ''education and training'' and inserting ''education, recruitment, and training''.

TITLE III—MUSEUM SERVICES

SEC. 301. PURPOSE.

Section 271 of the Museum and Library Services Act (20 U.S.C. 9171) is amended to read as follows:

''SEC. 271. PURPOSE.

''It is the purpose of this subtitle—

''(1) to encourage and support museums in carrying out their public service role of connecting the whole of society to the cultural, artistic, historical, natural, and scientific understandings that constitute our heritage;

''(2) to encourage and support museums in carrying out their educational role, as core providers of learning and in conjunction with schools, families, and communities;

''(3) to encourage leadership, innovation, and applications of the most current technologies and practices to enhance museum services;

''(4) to assist, encourage, and support museums in carrying out their stewardship responsibilities to achieve the highest standards in conservation and care of the cultural, historic, natural, and scientific heritage of the United States to benefit future generations;

''(5) to assist, encourage, and support museums in achieving the highest standards of management and service to the public, and to ease the financial burden borne by museums as a result of their increasing use by the public; and

''(6) to support resource sharing and partnerships among museums, libraries, schools, and other community organizations.''.

SEC. 302. DEFINITIONS.

Section 272(1) of the Museum and Library Services Act (20 U.S.C. 9172(1)) is amended by adding at the end the following: ''Such term includes aquariums, arboretums, botanical gardens, art museums, children's museums, general museums, historic houses and sites, history museums, nature centers, natural history and anthropology museums, planetariums, science and technology centers, specialized museums, and zoological parks.''.

SEC. 303. MUSEUM SERVICES ACTIVITIES.

Section 273 of the Museum and Library Services Act (20 U.S.C. 9173) is amended to read as follows:

''SEC. 273. MUSEUM SERVICES ACTIVITIES.

''(a) IN GENERAL.—The Director, after considering available policy advice of the Museum and Library Services Board, may enter into arrangements, including grants, contracts, cooperative agreements, and other forms of assistance, with museums and other entities as the Director considers appropriate, to pay the Federal share of the cost of—

''(1) supporting museums in providing learning and access to collections, information, and educational resources in a variety of formats (including exhibitions, programs, publications, and websites) for individuals of all ages;

''(2) supporting museums in building learning partnerships with the Nation's schools and developing museum resources and programs in support of State and local school curricula;

''(3) supporting museums in assessing, conserving, researching, maintaining, and exhibiting their collections, and in providing educational programs to the public through the use of their collections;

''(4) stimulating greater collaboration among museums, libraries, schools, and other community organizations in order to share resources and strengthen communities;

''(5) encouraging the use of new technologies and broadcast media to enhance access to museum collections, programs, and services;

''(6) supporting museums in providing services to people of diverse geographic, cultural, and socioeconomic backgrounds and to individuals with disabilities;

''(7) supporting museums in developing and carrying out specialized programs for specific segments of the public, such as programs for urban neighborhoods, rural areas, Indian reservations, and State institutions;

''(8) supporting professional development and technical assistance programs to enhance museum operations at all levels, in order to ensure the highest standards in all aspects of museum operations;

''(9) supporting museums in research, program evaluation, and the collection and dissemination of information to museum professionals and the public; and

''(10) encouraging, supporting, and disseminating model programs of museum and library collaboration.

''(b) FEDERAL SHARE.—

''(1) 50 PERCENT.—Except as provided in paragraph (2), the Federal share described in subsection (a) shall be not more than 50 percent.

''(2) GREATER THAN 50 PERCENT.—The Director may use not more than 20 percent of the funds made available under this subtitle for a fiscal year to enter into arrangements under subsection (a) for which the Federal share may be greater than 50 percent.

''(3) OPERATIONAL EXPENSES.—No funds for operational expenses may be provided under this section to any entity that is not a museum.

''(c) REVIEW AND EVALUATION.—

''(1) IN GENERAL.—The Director shall establish procedures for reviewing and evaluating arrangements described in subsection (a) entered into under this subtitle.

''(2) APPLICATIONS FOR TECHNICAL ASSISTANCE.—

''(A) IN GENERAL.—The Director may use not more than 10 percent of the funds appropriated to carry out this subtitle for technical assistance awards.

''(B) INDIVIDUAL MUSEUMS.—Individual museums may receive not more than 3 technical assistance awards under subparagraph (A), but subsequent awards for technical assistance shall be subject to review outside the Institute.

''(d) SERVICES FOR NATIVE AMERICANS.—From amounts appropriated under section 275, the Director shall reserve 1.75 percent to award grants to, or enter into contracts or cooperative agreements with, Indian tribes and organizations that primarily serve and represent Native Hawaiians (as defined in section 7207 of the Native Hawaiian Education Act (20 U.S.C. 7517)), to enable such tribes and organizations to carry out the activities described in subsection (a).''.

SEC. 304. REPEALS.

Sections 274 and 275 of the Museum and Library Services Act (20 U.S.C. 9174 and 9175) are repealed.

SEC. 305. AUTHORIZATION OF APPROPRIATIONS.

Section 276 of the Museum and Library Services Act (20 U.S.C. 9176) is amended—

(1) in subsection (a), by striking ''$28,700,000 for the fiscal year 1997, and such sums as may be necessary for each of the fiscal years 1998 through 2002.'' and inserting ''$41,500,000 for fiscal year 2004 and such sums as may be necessary for fiscal years 2005 through 2009.''; and

(2) by redesignating such section as section 275 of such Act.

SEC. 306. SHORT TITLE.

Subtitle C of the Museum and Library Services Act (20 U.S.C. 9171 et seq.) is amended—

(1) by redesignating sections 271, 272, and 273 as sections 272, 273, and 274, respectively; and

(2) by inserting after the subtitle heading the following:

''SEC. 271. SHORT TITLE.

''This subtitle may be cited as the 'Museum Services Act'.''.

TITLE IV—NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE ACT

SEC. 401. AMENDMENT TO CONTRIBUTIONS.

Section 4 of the National Commission on Libraries and Information Science Act (20 U.S.C. 1503) is amended by striking ''accept, hold, administer, and utilize gifts, bequests, and devises of property,'' and inserting ''solicit, accept, hold, administer, invest in the name of the United States, and utilize gifts, bequests, and devises of services or property,''.

SEC. 402. AMENDMENT TO MEMBERSHIP.

Section 6(a) of the National Commission on Libraries and Information Science Act (20 U.S.C. 1505(a)) is amended—

(1) in the second sentence, by striking ''and at least one other of whom shall be knowledgeable with respect to the library and information service and science needs of the elderly'';

(2) by striking the fourth sentence and inserting the following: ''A majority of members of the Commission who have taken office and are serving on the Commission shall constitute a quorum for conduct of business at official meetings of the Commission''; and

(3) in the fifth sentence, by striking ''five years, except that'' and all that follows through the period and inserting ''five years, except that—

''(1) a member of the Commission appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed, shall be appointed only for the remainder of such term; and

''(2) any member of the Commission may continue to serve after an expiration of the member's term of office until such member's successor is appointed, has taken office, and is serving on the Commission.''.

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. AMENDMENTS TO ARTS AND ARTIFACTS INDEMNITY ACT.

Section 5 of the Arts and Artifacts Indemnity Act (20 U.S.C. 974) is amended—

(1) in subsection (b), by striking ''$5,000,000,000'' and inserting ''$8,000,000,000'';

(2) in subsection (c), by striking ''$500,000,000'' and inserting ''$600,000,000''; and

(3) in subsection (d)—

(A) in paragraph (6), by striking ''or'' after the semicolon;

(B) by striking paragraph (7) and inserting the following:

''(7) not less than $400,000,000 but less than $500,000,000, then coverage under this chapter shall extend only to loss or damage in excess of the first $400,000 of loss or damage to items covered; or

''(8) $500,000,000 or more, then coverage under this chapter shall extend only to loss or damage in excess of the first $500,000 of loss or damage to items covered.''.

SEC. 502. NATIONAL CHILDREN'S MUSEUM.

(a) DESIGNATION.—The Capital Children's Museum located at 800 Third Street, NE, Washington, D.C. (or any successor location), organized under the laws of the District of Columbia, is designated as the ''National Children's Museum''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Capital Children's Museum referred to in subsection (a) shall be deemed to be a reference to the National Children's Museum.

SEC. 503. CONFORMING AMENDMENT.

Section 170(e)(6)(B)(i)(III) of the Internal Revenue Code of 1986 (relating to the special rule for contributions of computer technology and equipment for educational purposes) is amended by striking ''section 213(2)(A) of the Library Services and Technology Act (20 U.S.C. 9122(2)(A)'' and inserting ''section 213(1)(A) of the Library Services and Technology Act (20 U.S.C. 9122(1)(A))''.

SEC. 504. TECHNICAL CORRECTIONS.

(a) TITLE HEADING.—The title heading for the Museum and Library Services Act (20 U.S.C. 9101 et seq.) is amended to read as follows:

''TITLE II—MUSEUM AND LIBRARY SERVICES''.

(b) SUBTITLE A HEADING.—The subtitle heading for subtitle A of the Museum and Library Services Act (20 U.S.C. 9101 et seq.) is amended to read as follows:

''Subtitle A—General Provisions''.

(c) SUBTITLE B HEADING.—The subtitle heading for subtitle B of the Museum and Library Services Act (20 U.S.C. 9121 et seq.) is amended to read as follows:

''Subtitle B—Library Services and Technology''.

(d) SUBTITLE C HEADING.—The subtitle heading for subtitle C of the Museum and Library Services Act (20 U.S.C. 9171 et seq.) is amended to read as follows:

''Subtitle C—Museum Services''.

(e) CONTRIBUTIONS.—Section 208 of the Museum and Library Services Act (20 U.S.C. 9106) (as redesignated by section 104 of this Act) is amended by striking ''property of services'' and inserting ''property or services''.

(f) STATE PLAN CONTENTS.—Section 224(b)(5) of the Library Services and Technology Act (20 U.S.C. 9134(b)(5)) is amended by striking ''and'' at the end.

(g) NATIONAL LEADERSHIP GRANTS, CONTRACTS, OR COOPERATIVE AGREEMENTS.—Section 262(b)(1) of the Library Services and Technology Act (20 U.S.C. 9162(b)(1)) is amended by striking ''cooperative agreements, with,'' and inserting ''cooperative agreements with,''.

SEC. 505. REPEALS.

(a) NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE ACT.—Section 5 of the National Commission on Libraries and Information Science Act (20 U.S.C. 1504) is amended—

(1) by striking subsections (b) and (c); and

(2) by redesignating subsections (d), (e), and (f) as subsections (b), (c), and (d), respectively.

(b) MUSEUM AND LIBRARY SERVICES ACT OF 1996.—Sections 704 through 707 of the Museum and Library Services Act of 1996 (20 U.S.C. 9102 note, 9103 note, and 9105 note) are repealed.

SEC. 506. EFFECTIVE DATE.

The amendments made by this Act shall take effect on the date of enactment of this Act, except that the amendments made by sections 203, 204, and 305 of this Act shall take effect on October 1, 2003.

Mr. REED. Mr. President, today I rise to join Senators GREGG, KENNEDY, FRIST, and others in introducing the Museum and Library Services Act.

This legislation, which extends the authorization of museum and library services through fiscal year 2009 and makes several important improvements to current law, is a compromise based on S. 238, bipartisan legislation I introduced with Senators KENNEDY, COCHRAN, COLLINS, SNOWE, and others in January.

Like S. 238, this bill ensures that library activities are coordinated with the school library program I authored, which is now part of the No child Left Behind Act of 2001. It also doubles the minimum State allotment under the Library Program, which will enable smaller States such as Rhode Island to benefit and implement the valuable services and programs that larger States have been able to put in place. It includes an increase in the indemnity limits under the Arts and Artifacts Indemnity Act to ensure continued support for American museums as they facilitate international cultural exchanges through touring exhibitions here in the U.S. and loans of American art around the world.

The bill also updates the uses of funds for library and museum programs and increases the authorization under the Library services and Technology Act, LSTA, from $150 million to $250 million and the Museum Services Act from $28.7 million to $41.5 million. We should meet these funding levels in the appropriations process due to the strong bipartisan nature of the bill we are introducing today. I personally believe that our libraries and museums should be more robustly funded, particularly as these institutions play increasingly important roles in our lives. Indeed, the bipartisan bill that Senator KENNEDY and I put forward earlier this year included even higher funding levels. But, in an effort to move this bill forward, I have agreed to support this compromise.

I urge my colleagues to cosponsor this important legislation and work for its swift passage.

By Mr. CORZINE (for himself, Mrs. CLINTON, and Mr. LAUTENBERG):

S. 889. A bill to accord honorary citizenship to the alien victims of the September 11, 2001, terrorist attacks against the United States and to provide for the granting of citizenship to the alien spouses and children of certain victims of such attacks; to the Committee on the Judiciary.

Mr. CORZINE. Madam President, I rise today to introduce the Terrorist Victim Citizenship Relief Act, a bill that would provide citizenship relief to many families adversely affected by the attacks of September 11, 2001.

In the time since that tragic day, I have met with several of the families of the victims of the terrorist attacks to discuss a variety of measures in the wake of that national calamity. They have been dealing with a personal anguish that many of us can only imagine. In my view, Congress must do more to help the families of the victims of September 11, and the Terrorist Victim Citizenship Relief Act should be a part of that effort.

When American citizens, foreign nationals, and immigrants perished in the cowardly terrorist acts of September 11, the immigration status of hundreds of families was thrown into turmoil. The attacks were on American soil on a major American institution and directed at the United States. Yet American citizens were not the only victims. Hundreds of temporary workers and immigrants died shoulder-to-shoulder with thousands of Americans. Their deaths should be acknowledged and their families should be honored.

My legislation would bestow honorary citizenship on legal immigrants and non-immigrants who died in the disaster. This would honor their spirit and their tremendous sacrifice. Perhaps more important, the bill would offer citizenship to surviving spouses and children, subject to a background investigation by the Federal Bureau of Investigation. In the spirit of fairness and unity, it is appropriate and responsible to offer the privilege of citizenship to families who lost so much because of this attack on the United States.

About 3,000 people lost their lives when four planes crashed on that fateful September morning. Nationals from

some 86 countries perished in the attack, including visitors, non-immigrant workers, and legal permanent residents.

America was not the only country that suffered losses. There was good reason the complex was called the World Trade Center. In the September 11 attacks, 86 countries including England, Germany, Mexico, Colombia, Japan, Canada, Australia, the Philippines, Ireland, South Africa, and Pakistan suffered tragic losses. And there were many more.

In New Jersey, there are dozens of poignant stories of immigrant families who experienced tragic losses in the World Trade Center disaster. These innocent people have lost husbands and wives, sons and daughters, sisters and brothers. Their families have been fractured and their livelihoods jeopardized.

Immigrant families have been forced to grapple with a bureaucratic nightmare, wading through the myriad of programs available to the families of victims in an effort to keep their heads above water. They are often disheartened to learn that, although their loved ones died in the same attack, non-citizens are ineligible for many of the programs designed to assist the surviving families of victims.

Concerns about immigration status have only added to the tremendous burden immigrant families are already confronting. Take the example of one New Jersey woman who came to my office seeking assistance. Her immigration status was directly dependent on the non-immigrant worker status of her husband who died in the attack. Both of her children were born in the United States. They are full citizens and are enrolled in American schools.

She wants to continue to raise her children in the United States. However, under the antiterrorism legislation that was passed in the last Congress, this mother of two is technically deportable right now. My legislation would grant her citizenship immediately, helping her to avoid the burden of removing her children from the only country they have ever truly known, while they are still grappling with the loss of their father. Granting her citizenship is the right thing to do.

This woman's story is but one of many. My office has received numerous inquiries from immigrant families concerned that their immigration status has been undermined by the death of a loved one. Many families were in the process of preparing the necessary paperwork to apply for a change in status, only to have their potential sponsor die alongside thousands of others in the World Trade Center attack. This legislation would ensure that those families would be allowed to become American citizens and avoid undue paperwork and heartache.

When perpetrating their horrific crime, the terrorists did not distinguish between immigrants and American citizens or between undocumented workers and legal permanent residents. They were attacking the United States, and, in the process, killed thousands, citizens and non-citizens alike. In death, citizenship was irrelevant.

The thousands who died did not know it when they went to work, but they were at the front lines in the next American war. Their deaths are a tragedy that every civilized human being wishes could be reversed. Unfortunately, we cannot turn back the clock. However, we can acknowledge the tremendous loss of hundreds of immigrant families by allowing them to take on the full rights and responsibilities of American citizenship.

I urge my colleagues to support this important legislation, and ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 889

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Terrorist Victim Citizenship Relief Act''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) On September 11, 2001, the United States suffered a series of attacks which led to the deaths of thousands of people.

(2) Hundreds of foreign nationals perished in the attacks on the American institutions on American soil.

(3) At that time, the Immigration and Naturalization Service was processing applications for adjustment in immigration status for immigrants who perished in the attacks.

(4) The immigrant or nonimmigrant status of many immigrant families depends on the sponsorship of those who perished.

(5) The former Immigration and Naturalization Service publicly stated that it would not take action against foreign nationals whose immigration status is in jeopardy as a direct result of the attack.

(6) The Commissioner of the former Immigration and Naturalization Service James Ziglar stated that ''the Immigration and Naturalization Service will exercise its discretion toward families of victims during this time of mourning and readjustment''.

(7) Only Congress has the authority to change immigration law to address unanticipated omissions in existing law to account for the unique circumstances surrounding the events of September 11, 2001.

SEC. 3. DECEASED ALIEN VICTIMS OF TERRORIST ATTACKS DEEMED TO BE UNITED STATES CITIZENS.

Notwithstanding title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.), and except as provided in section 5, each alien who died as a result of a September 11, 2001, terrorist attack against the United States, shall, as of that date, be considered to be an honorary citizen of the United States if the alien held lawful status under the immigration laws of the United States as of that date.

SEC. 4. CITIZENSHIP ACCORDED TO ALIEN SPOUSES AND CHILDREN OF CERTAIN VICTIMS OF TERRORIST ATTACKS.

Notwithstanding title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.), and except as provided in section 5, an alien spouse or child of an individual who was lawfully present in the United States and who died as a result of a September 11, 2001, terrorist attack against the United States shall be entitled to naturalization as a citizen of the United States upon being administered the oath of renunciation and allegiance in an appropriate ceremony pursuant to section 337 of the Immigration and Nationality Act (8 U.S.C. 1448), without regard to the current status of the alien spouse or child under the immigration laws of the United States, if the spouse or child applies to the Secretary of Homeland Security for naturalization not later than 2 years after the date of enactment of this Act. The Secretary of Homeland Security shall record the date of naturalization of any person granted naturalization under this section as being September 10, 2001.

SEC. 5. EXCEPTIONS.

Notwithstanding any other provision of this Act, an alien may not be naturalized as a citizen of the United States, or afforded honorary citizenship, under this Act if the alien is—

(1) inadmissible under paragraph (2) or (3) of section 212(a) of the Immigration and Nationality Act, or deportable under paragraph (2) or (4) of section 237(a) of that Act, including any terrorist perpetrator of a September 11, 2001, terrorist attack against the United States; or

(2) a member of the family of a person described in paragraph (1).

By Mrs. MURRAY (for herself, Mrs. COLLINS, and Mr. KENNEDY):

S. 890. A bill to amend the individuals with Disabilities Education Act to provide grants to State educational agencies to establish high cost funds from which local educational agencies are paid a percentage of the costs of providing a free appropriate public education to high need children and other high costs associated with educating children with disabilities, and for other purposes; to the Committee on Finance.

Mrs. MURRAY. Mr. President, I am pleased today to introduce the Supporting Success for High Need Students Act, and I thank Senator COLLINS and Senator KENNEDY for joining me in offering this legislation. In recent years, I have come to this floor many times to talk about special education, often in the context of the need to fully fund the Individuals with Disabilities Act, or IDEA as it is often known.

Mandatory full funding of IDEA is an important issue that should have been settled many years ago. The Federal Government should be meeting the commitment it made over 25 years ago to fund 40 percent of the excess cost of special education. Two years ago, this body finally recognized that reality and passed an amendment to the Elementary and Secondary Education Act that would have fulfilled that promise for students, schools, districts and States struggling to make up where we fall short. I was disappointed that the President made it clear that he did not support funding this long-standing mandate, and that the House voted not to accept the Senate amendment. At that time I voiced my commitment to continuing to fight to provide the full funding that is long overdue, and I will continue that fight. Unfortunately though, there is a small minority of

students whose educational needs will not be adequately supported even when IDEA is fully funded.

High-need students, whose disabilities may make education an extremely expensive endeavor, must nonetheless have the services and supports they need to receive a full, appropriate public education. Children who are severely autistic or have severe developmental disabilities, for example, may need special facilities, equipment, educational tools, medical services, professional individualized attention and other resources in order to get the education they need to succeed. These needs often far exceed those of most students with disabilities, and so do their costs. The National Center for Education Statistics estimates that the average per pupil expenditure to educate a child in the United States was $7,156 in the 2000–01 academic year. The cost of educating a high-needs student can far exceed that. Costs occasionally exceed $150,000 per year—more than 20 times the average—to provide students with disabilities the education they need. However, no price is too high to fulfill the civil rights of America's children.

With so many Americans out of work, and State and local budgets squeezed to the brink of disaster, these costs can be a prohibitive burden for school districts to shoulder. Small, rural school districts or districts near specialized medical facilities—which are often in our major cities, but can be in unexpected locations such as near a major military base—are most heavily impacted by these costs. But in the right combination of circumstances, such as a family with quadruplets who are all severely developmentally delayed, any district can feel the pinch of the costs incurred from educating these high-need children.

I know that educators, administrators and elected officials at every level want to do the right thing. They are trying to give students with disabilities the best education they can. But too often, they simply lack the resources to do so, or they find themselves faced with a no-win situation—choosing between implementing an after school program for the entire district or funding one high-need student's Individualized Education Plan. The losers in this equation are the students—with or without disabilities—their parents, and our society as a whole. The resulting tensions do a grave disservice to our communities.

The bill I am introducing today—the Supporting Success for High Need Students Act of 2003—is a carefully crafted bill that would address this problem. This legislation adds funding to IDEA targeted specifically for high-need students. It authorizes $750 million in fiscal year 2004 for grants to be administered by the States. This funding would be allocated to the States using the same formula that apportions funding for IDEA part B. If a high-need student's education costs more than four times the average per pupil expenditure, the school district would be able to apply for a grant to offset those costs. I believe that we should preserve incentives for school districts to manage those costs, so my bill would allow districts to recover three-quarters of the costs above that 400 percent threshold to educate high-needs students. Districts could not be reimbursed with these funds for any legal costs incurred through due process proceedings, or costs that should be reimbursed by Medicaid. The funds would only cover education and related services included in an appropriately formulated Individualized Education Plan.

To illustrate, let's assume that four times the average per pupil expenditure is $25,000. If a school district were serving a student whose education cost $45,000 a year, that district could recoup about $15,000 from the State grant. If a district were serving a student whose education cost $225,000, that district could recoup about $150,000. This bill would not make up all the additional costs of educating high-need students, but it would give struggling districts a much-needed lifeline by making them a lot more manageable.

It has often been noted that the moral test of a society is how it cares for its weakest members. It is the government's appropriate role and duty to protect the basic human dignity of all its citizens to ensure that even the neediest among us have a fair opportunity to realize their dreams and potential. That is why we passed the special education law over 25 years ago, and that is why we should pass the Supporting Success for High Need Students Act his year.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 890

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Supporting Success for High Need Students Act of 2003''.

SEC. 2. HIGH COST FUND FOR LOCAL EDUCATIONAL AGENCIES.

Part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.) is amended by adding at the end the following:

''SEC. 620. HIGH COST FUND FOR LOCAL EDUCATIONAL AGENCIES.

''(a) DEFINITIONS.—In this section:

''(1) AVERAGE PER-PUPIL EXPENDITURE.—The term 'average per-pupil expenditure' has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965.

''(2) HIGH NEED CHILD.—The term 'high need child' means a child with a disability for whom a free appropriate public education in a fiscal year costs more than 4 times the average per-pupil expenditure for such fiscal year.

''(b) AUTHORIZATION OF GRANT PROGRAM AND ALLOTMENT.—

''(1) RESERVATION.—From funds appropriated under subsection (h), the Secretary shall reserve—

''(A) not more than 1 percent to assist the outlying areas in providing a free appropriate public education to children with disabilities in such areas for whom a free appropriate public education costs more than 4 times the national average per-pupil expenditure or 4 times the average per-pupil expenditure in the outlying area; and

''(B) 1.226 percent to assist the Secretary of the Interior in providing a free appropriate public education to children with disabilities on reservations who are enrolled in schools for Indian children operated or funded by the Secretary of the Interior for whom a free appropriate public education costs more than 4 times the national average per-pupil expenditure or 4 times the average per-pupil expenditure in such schools.

''(2) GRANT PROGRAM.—From funds appropriated under subsection (h), and not reserved under paragraph (1), the Secretary shall award grants to State educational agencies, from allotments under paragraph (3), to enable the State educational agencies to establish high cost funds, as described in subsection (c), from which local educational agencies shall receive disbursements to pay a percentage of the costs of providing a free appropriate public education to high need children and other high costs, as described in subsection (c)(3), associated with educating children with disabilities.

''(3) ALLOTMENT.—From funds appropriated under subsection (h) for a fiscal year, and not reserved under paragraph (1), the Secretary shall allot to each State an amount that bears the same ratio to such funds as the amount the State received under section 611 for the fiscal year bears to the total amount received by all States under that section for the fiscal year.

''(c) HIGH COST FUND.—

''(1) IN GENERAL.—Each State educational agency that receives a grant under subsection (b) shall—

''(A) use the grant funds to establish a high cost fund; and

''(B) make disbursements from the high cost fund to local educational agencies in accordance with this subsection.

''(2) REQUIRED DISBURSEMENTS FROM THE FUND.—

''(A) IN GENERAL.—Each State educational agency that receives a grant under subsection (b) shall make disbursements from the fund established under paragraph (1) to local educational agencies to pay the percentage described in subparagraph (C) of the costs of providing a free appropriate public education to high need children.

''(B) APPLICATION.—

''(i) IN GENERAL.—A local educational agency that desires a disbursement under this paragraph shall submit an application to the State educational agency at such time, in such manner, and containing such information as the State educational agency may require.

''(ii) CONTENTS.—An application submitted pursuant to clause (i) shall contain the following:

''(I) A figure that reflects the costs of providing a free appropriate public education to each high need child served by the local educational agency in a fiscal year for whom such agency desires a disbursement under this section.

''(II) The IEP for each high need child served by the local educational agency for whom such agency desires a disbursement under this section.

''(III) Assurances that grant funds provided under this section shall not be used to pay costs that otherwise would be reimbursable as medical assistance for a child with a disability under the State medicaid program under title XIX of the Social Security Act.

''(C) DISBURSEMENTS.—

''(i) IN GENERAL.—Subject to subparagraph (D), a State educational agency shall make a disbursement to a local educational agency that submits an application under subparagraph (B) in an amount that is equal to 75 percent of the costs that are in excess of 4 times the average per-pupil expenditure in either the Nation or the State where the child resides (calculated from whichever average per-pupil expenditure is lower) associated with educating each high need child served by such local educational agency in a fiscal year for whom such agency desires a disbursement.

''(ii) APPROPRIATE COSTS.—The costs associated with educating a high need child under clause (i) are only those costs associated with providing special education and related services to such child that are identified in such child's appropriately developed IEP.

''(D) DISALLOWANCE OF CERTAIN PAYMENTS.—A State educational agency may disallow payment of certain costs included in the figure submitted by a local educational agency under subparagraph (B)(ii)(I) if such costs are determined by the State educational agency to be inappropriate or unnecessary excess costs associated with providing a free appropriate public education to a high need child.

''(E) LEGAL FEES.—The costs associated with providing a free appropriate public education to a high need child shall not include legal fees, court costs, or other costs associated with a cause of action brought on behalf of such child to ensure a free appropriate public education for such child.

''(3) PERMISSIBLE DISBURSEMENTS FROM REMAINING FUNDS.—A State educational agency may make disbursements to local educational agencies from any funds that are remaining in the high cost fund after making the required disbursements under paragraph (2) for a fiscal year for the following purposes:

''(A) To pay the costs associated with serving children with disabilities who moved into the areas served by such local educational agencies after commencement of the school year to assist the local educational agencies in providing a free appropriate public education for such children in such year.

''(B) To compensate local educational agencies that expend over a threshold amount determined by the State educational agency on costs associated with providing a free appropriate public education to all children with disabilities served by such agencies.

''(4) LIMITATION ON ADMINISTRATIVE COSTS.—A State educational agency may use not more than 2 percent of the funds received under this section for the administrative costs of carrying out such agency's responsibilities under this section.

''(d) ASSURANCE OF A FREE APPROPRIATE PUBLIC EDUCATION.—Nothing in this section shall be construed—

''(1) to limit or condition the right of a child with a disability who is assisted under this part to receive a free appropriate public education pursuant to section 612(a)(1) in a least restrictive environment pursuant to section 612(a)(5); and

''(2) to authorize a State educational agency or local educational agency to indicate a limit on what is expected to be spent on the education of a child with a disability.

''(e) EVALUATION AND REPORT.—The Secretary shall—

''(1) evaluate the effectiveness of the high cost funds established pursuant to this section; and

''(2) submit a report to the appropriate committees of Congress on such evaluation.

''(f) SUPPLEMENT, NOT SUPPLANT.—Funds made available under this section shall be used to supplement and not supplant other Federal, State, and local funds available for providing a free appropriate public education for children with disabilities.

''(g) MEDICAID SERVICES NOT AFFECTED.—Grant funds provided under this section shall not be used to pay costs that otherwise would be reimbursable as medical assistance for a child with a disability under the State medicaid program under title XIX of the Social Security Act.

''(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $750,000,000 for fiscal year 2004 and such sums as may be necessary for each succeeding fiscal year.''.

By Mr. SANTORUM (for himself, Mr. KERRY, Mr. ENSIGN, Ms. MIKULSKI, Mr. SMITH, Mrs. MURRAY, Mr. HATCH, Mr. LIEBERMAN, Mr. BROWNBACK, Mr. CORZINE, and Mrs. CLINTON):

S. 893. A bill to amend title VII of the Civil Rights Act of 1964 to establish provisions with respect to religious accommodation in employment, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. SANTORUM. Mr. President, today I am pleased to join concerned colleagues, both Republicans and Democrats, as well as concerned citizens, including Christians, Jews, Muslims, and Sikhs among many other faiths. We come together in support of a simple proposition. America is distinguished internationally as a land of religious freedom. It should be a place where people should not be forced to choose between keeping their faith and keeping their job. That is why I am joining with Senators KERRY, ENSIGN, MIKULSKI, SMITH, MURRAY, HATCH, LIEBERMAN, BROWNBACK, and CORZINE in introducing the bipartisan Workplace Religious Freedom Act.

This legislation provides a much needed, balanced approach to reconciling the needs of people of faith in the workplace. It recognizes that work and religion can be reconciled without undue hardship. Americans continue to be a religious people, many with a deep personal faith commitment. With this commitment comes personal religious standards which govern personal activity. For example, some Americans don't work on Saturdays, while others don't work on Sundays. Not because they're lazy or frivolous, but because their faith convictions call for a Sabbath day, requiring a day to be set aside as holy.

Similarly, some Americans need to wear a skullcap to work, or a head covering, or a turban. As a Nation whose great strength rests in diversity, surely we can protect such diverse yet simple and unobtrusive expressions of personal faith. Surely we're generous enough, and respecting enough as a Nation, to support others in genuine expressions of their faith. I am particularly anxious for the religious minorities, for the Muslims and the Jews and the others who are very small in number but great in conviction. In our increasingly diverse society, many remain among us who still hold to ancient, heartfelt principles governed by a deep personal belief. I submit to you they deserve the decency of respect which includes our protection in preserving their peaceful religious expressions. This is a core principle which cannot be compromised, because it speaks to the essence of who we are as a people committed to preserving freedom. Religious freedom is best protected and maintained by respecting the diversity of religious traditions, especially minority religions. The tragedy of September 11, 2001 has reminded us that religious pluralism is one the great strengths of this country and an example to much of the world.

In this land of religious freedom, one would hope that employers would spontaneously accommodate the religious needs of their employees whenever reasonable. That is, after all, what we do whenever possible here in Congress. For example, we don't conduct votes or hearings on certain holidays so that Members and staff can observe their religious holy days. While most private employers also extend this simple but important decency to their workers, some unfortunately do not.

Historically, Title VII of the Civil Rights Act of 1964 was meant to address conflicts between religion and work. On its face it requires employers to ''reasonably accommodate'' the religious needs of their employees as long as this does not impose an ''undue hardship'' on the employer. The problem is that our Federal courts have essentially read these lines out of the law by ruling that any hardship is an undue hardship. This is not right, nor does it hold with the spirit of this great Nation which was founded as a refuge for religious freedom. Thus, a Maryland trucking company can try to force a devout Christian truck driver to take a Sunday shift. A local sheriff's department in Nevada can tell a Seventh Day Adventist that she must work a Saturday shift if she wants to continue working for them.

The Workplace Religious Freedom Act will re-establish the principle that employers must reasonably accommodate the religious needs of employees such as these. This legislation is carefully crafted and strikes an appropriate balance between religious accommodation, while ensuring that an undue burden is not forced upon American employers. It is flexible and case-oriented on an individual basis. Thus, a smaller business with less resources and personnel would not be asked to accommodate religious employees in exactly the same fashion as would a large manufacturing concern.

I am proud of the fact that this is a bipartisan effort. I am proud that this legislation is supported by such a broad spectrum of groups ranging from the Christian Legal Society, the Union of Orthodox Jewish Congregations, the

Southern Baptist Convention, the National Council of Churches, the North American Council for Muslim Women, the Sikh Resource Taskforce, the Seventh Day Adventist Church, the American Jewish Committee and many others.

America is a great Nation because we honor not only the freedom of conscience—but also the freedom to exercise one's religion according to the dictates of that religious conscience. This liberty, known as the ''first freedom,'' is worthy of our continued vigilance. It should be supported from all quarters through religious accommodation in both the public and private sectors. This fundamental freedom is protected here in this legislation which re-establishes an appropriate balance between the demands of work and the principles of faith.

Mr. KERRY. Madam President, I am extremely pleased to join with my colleague Senator SANTORUM today to introduce the Workplace Religious Freedom Act of 2003. Senators ENSIGN, MIKULSKI, SMITH, MURRAY, HATCH, LIEBERMAN, BROWNBACK, and CORZINE have all joined us as original cosponsors of this important legislation.

The Workplace Religious Freedom Act would protect workers from on-the-job discrimination related to religious beliefs and practices. It represents a milestone in the protection of the religious liberties of all workers.

In 1972, Congress amended the Civil Rights Act of 1964 to require employers to reasonably accommodate an employee's religious practice or observance unless doing so would impose an undue hardship on the employer. This 1972 amendment, although completely appropriate, has been interpreted by the courts so narrowly as to place little restraint on an employer's refusal to provide religious accommodation. The Workplace Religious Freedom Act will restore the weight to the religious accommodation provision that Congress originally intended and help assure that employers have a meaningful obligation to reasonably accommodate their employees' religious practices.

The restoration of this protection is no small matter. For many religiously observant Americans the greatest peril to their ability to carry out their religious faiths on a day-to-day basis may come from employers. I have heard accounts from around the country about employers who will not make reasonable accommodations for employees to observe the Sabbath and other holy days, or for employees to wear religiously-required garb, such as a yarmulke, or for employees to wear clothing that meets religion-based modesty requirements.

The refusal of an employer absent undue hardship to provide reasonable accommodation of a religious practice should be seen as a form of religious discrimination, as originally intended by Congress in 1972. And religious discrimination should be treated as seriously as any other form of discrimination that stands between Americans and equal employment opportunities. Enactment of the Workplace Religious Freedom Act will constitute an important step toward ensuring that all members of society, whatever their religious beliefs and practices, will be protected from an invidious form of discrimination.

Even after September 11, 2001, with a heightened sense of religious sensitivity among the American people, securing greater protections for the religious needs of employees is a major issue. In October 2001, the U.S. Supreme Court refused to hear an appeal from a Muslim woman who was pressured by her employer to stop wearing her head scarf. We must come together now to pass this bipartisan legislation.

It is important to recognize that, in addition to protecting the religious freedom of employees, this legislation protects employers from an undue burden. Employees would be allowed to take time off only if their doing so does not pose a significant difficulty or expense for the employer. This common sense definition of undue hardship is used in the Americans with Disabilities Act and has worked well in that context.

We have little doubt that this bill is constitutional because it simply clarifies existing law on discrimination by private employers, strengthening the required standard for employers. This bill does not deal with behavior by State or Federal Governments or substantively expand 14th Amendment rights.

This bill is endorsed by a wide range of organizations including the Agudath Israel of America, American Jewish Committee, American Jewish Congress, Americans for Democratic Action, Anti-Defamation League, Baptist Joint Committee on Public Affairs, Bible Sabbath Association, B'nai B'rith International, Central Conference of American Rabbis, Christian Legal Society, Church of Scientology International, Council on Religious Freedom, Family Research Council, General Board of Church and Society The United Methodist Church, General Conference of Seventh-day Adventists, Guru Gobind Singh Foundation, Hadassah—WZOA, Institute on Religion and Public Policy, The Interfaith Alliance, International Association of Jewish Lawyers and Jurists, International Commission on Freedom of Conscience, International Fellowship of Christians and Jews, Islamic Supreme Council of America, Jewish Council for Public Affairs, Jewish Policy Center, NA'AMAT USA, National Association of Evangelicals, National Conference for Community and Justice, National Council of the Churches of Christ in the U.S.A., National Council of Jewish Women, National Jewish Democratic Council, National Sikh Center, North American Council for Muslim Women, Presbyterian Church (USA), Rabbinical Council of America, Republican Jewish Coalition, Sikh Council on Religion and Education, Sikh Mediawatch and Resource Task Force, Southern Baptist Convention Ethics and Religious Liberty Commission, Traditional Values Coalition, Union of American Hebrew Congregations, Union of Orthodox Jewish Congregations, United Church of Christ Office for Church in Society, and United Synagogue of Conservative Judaism.

I want to thank Senator SANTORUM for joining me to lead this effort. I look forward to working with him to pass this legislation so that all American workers can be assured of both equal employment opportunities and the ability to practice their religion.

By Mr. NICKLES (for himself and Mrs. LINCOLN):

S. 895. A bill to amend the Internal Revenue Code of 1986 to include wireless telecommunications equipment in the definition of qualified technological equipment for purposes of determining the depreciation treatment of such equipment; to the Committee on Finance.

Mr. NICKLES. Mr. President, I rise today to introduce legislation to clarify the tax rules governing the depreciation of wireless telecommunications equipment. I am joined by my distinguished colleague from Arkansas, Mrs. LINCOLN.

Our current depreciation system, the Modified Accelerated Cost Recovery System, MACRS, was last reformed in 1986. At that time, the wireless telecommunications industry was in its infancy. Therefore, wireless telecommunications equipment, which is primarily computer-based technology, was not assigned to a specific asset class.

The IRS has provided only limited guidance with respect to the depreciation of wireless telecommunications equipment. In 1998, the IRS issued Technical Advice Memorandum, TAM, 98–25–03, which asserted that the classes of assets used to provide wireless telecommunications services are comparable to wireline telecommunications assets and, thus, should be assigned to wireline asset classes. The TAM concluded that mobile switching centers should be classified in the same asset class with computer-based telephone central office switching equipment, 5-year property. However, the TAM failed to take a clear position with regard to the classification of cell site equipment, so there is no practical guidance for IRS revenue agents or taxpayers to follow.

Over the past decade, the IRS and wireless telecommunications companies have expended significant resources in audits and settlement disputes involving the depreciation of wireless telecommunications equipment. This has resulted in ad hoc, inconsistent, and costly case-by-case determinations of the appropriate class

life for this equipment. It has created the current situation in which similarly situated companies are being treated differently, with some being required to depreciate their wireless telecommunications equipment over 5 years, and others over 10 years or longer.

I believe Congress should act to clarify the depreciation rules for wireless telecommunications equipment to provide certainty to the IRS and the taxpayer, thereby putting an end to the costly dispute settlement process; to ensure a level playing field for taxpayers; and to provide fair tax-treatment of wireless telecommunications equipment. Given the nature of this equipment and the rapid technological advances in the wireless industry, I believe the most appropriate classification for wireless telecommunications equipment is as ''qualified technological equipment'' with a 5-year depreciable life.

The bill I am introducing with my colleague from Arkansas would make this important clarification to the tax laws. I look forward to working with my colleagues to enact my legislation that will provide more rational tax-treatment of wireless telecommunications equipment. By so doing, we will take an incremental step toward modernizing the Tax Code's outdated depreciation rules.

By Mrs. HUTCHISON (for herself and Mr. BAYH):

S. 899. A bill to amend title XVIII of the Social Security Act to restore the full market basket percentage increase applied to payments to hospitals for inpatient hospital services furnished to medicare beneficiaries, and for other purposes; to the Committee on Finance.

Mrs. HUTCHISON. Mr. President, I am pleased to introduce legislation today that will increase Medicare reimbursement to hospitals. While we corrected in the omnibus appropriations bill the reimbursement issue for physicians and rural hospitals, nothing was done to assist teaching hospitals or give hospitals a full inflationary update. Texas hospitals alone are facing a loss of $53 million in 2003 due to Medicare reimbursement cuts.

Hospital admissions have risen from 31 million patients in 1990 to 33 million in 2000, and the number of days in the hospital is rising as well. Increased admissions, rising liability premiums, and the cost of advanced technology have forced hospitals to cut back on services. The cost of a pint of blood increased 31 percent in 2001, an additional $920 million burden to hospitals. Such costs are continuing to rise, yet Medicare reimbursements to hospitals are not keeping pace with inflation and their margins are slowly shrinking. Fifty-eight percent of hospitals are losing money on the Medicare patients they treat.

This legislation, the American Hospital Preservation Act, restores the market basket update and the reimbursement for indirect medical education, IME, payments to teaching hospitals. The market basket update is an inflationary adjustment to account for the rising costs of goods and services, and the IME payments give teaching hospitals an additional Medicare reimbursement due to their higher costs of inpatient care. Both of these factors were cut by the Balanced Budget Act of 1997. Restoring the cuts means $289 million to Texas hospitals and $6 billion nationwide over the next five years. Major teaching hospitals are experiencing their lowest profit margin since the late '90s, 2.4 percent. Patients, especially those who are seriously ill, rely on teaching hospitals, which make up 78 percent of all trauma centers and 80 percent of all burn beds. Although only 23 percent of all hospitals are teaching hospitals, they deliver over two-thirds of charity care.

Emergency rooms are increasingly used as a primary care clinic because patients cannot find a physician who accepts Medicare, and they are treating more individuals who are uninsured. In 2000, hospitals provided $21.6 billion in uncompensated care.

Lower reimbursement rates coupled with bioterrorism risks and a workforce shortage make our hospitals a time bomb waiting to go off. Our hospitals are always open and must accept anyone who walks through their doors. It is our responsibility to ensure they have adequate resources from the Federal Government.

I look forward to working with my colleagues to pass the American Hospital Preservation Act.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 899

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''American Hospital Preservation Act of 2003''.

SEC. 2. RESTORING FULL MARKET BASKET UPDATE FOR INPATIENT PPS HOSPITALS.

(a) IN GENERAL.—Section 1886(b)(3)(B)(i) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended—

(1) in subclause (XVIII), by striking ''and'' at the end; and

(2) by striking subclause (XIX) and inserting the following new subclauses:

''(XIX) for fiscal year 2004, the market basket percentage increase plus 0.55 percentage points for hospitals in all areas; and

''(XX) for fiscal year 2005 and each subsequent fiscal year, the market basket percentage increase for hospitals in all areas.''.

(b) PROTECTING FULL MARKET BASKET UPDATE FOR FISCAL YEARS 2004 AND THEREAFTER.—Such section, as amended by subsection (a), is further amended by inserting after subclause (XX) the following:

''Notwithstanding any other provision of law, the 'applicable percentage increase' for any fiscal year after fiscal year 2005 may not be a percentage that is less than the market basket percentage increase for such year.''.

SEC. 2. FREEZING INDIRECT MEDICAL EDUCATION (IME) ADJUSTMENT PERCENTAGE AT 6.5 PERCENT.

(a) IN GENERAL.—Section 1886(d)(5)(B)(ii) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended—

(1) in subclause (VI), by striking ''and'' at the end; and

(2) by striking subclause (VII) and inserting the following new subclauses:

''(VII) during fiscal year 2003, ''c'' is equal to 1.35.

''(VIII) during fiscal year 2004, ''c'' is equal to 1.85; and

''(IX) on or after October 1, 2004, 'c' is equal to 1.6.''.

(b) CONFORMING AMENDMENT RELATING TO DETERMINATION OF STANDARDIZED AMOUNT.—Section 1886(d)(2)(C)(i) of such Act (42 U.S.C. 1395ww(d)(2)(C)(i)) is amended—

(1) by striking ''1999 or'' and inserting ''1999,''; and

(2) by inserting '', or the American Hospital Preservation Act of 2003'' after ''2000''.

By Mr. BURNS:

S. 900. A bill convey the Lower Yellowstone Irrigation Project, the savage Unit of the Pick-Sloan Missouri Basin Program, and the Intake Irrigation Project to the pertinent irrigation districts; to the Committee on Energy and Natural Resources.

Mr. BURNS. Mr. President, I rise today to introduce a piece of legislation that helps a large number of family farmers on the border of Montana and North Dakota. The Lower Yellowstone Irrigation Projects Title Transfer moves ownership of these irrigation projects from Federal control to local control. Both the Bureau of Reclamation and those relying on the projects for their livelihood agree there is little value in having the Federal Government retain ownership.

I introduced this legislation in the last Congress, and continue to believe it helps us to achieve the long term goals of Montana irrigators, and the mission of the Bureau of Reclamation. In the past I asked John W. Keys III, commissioner of the Bureau of Reclamation, his position on title transfers of irrigation projects like the Lower Yellowstone, where local irrigation districts have successfully managed the Federal properties, and where the Bureau has encouraged the transfer of title to the Districts. His response to me was very encouraging. He stated this type of title transfer ''makes sense and is an opportunity to move facilities from Federal ownership to more appropriate control.'' During our discussion Commissioner Keys promised to work with me and the Irrigation District to make this a reality, and I look forward to it.

The history of these projects dates to the early 1900's with the original Lower Yellowstone project being built by the Bureau of Reclamation between 1906 and 1910. The Savage Unit was added in 1947–48. The end result was the creation of fertile, irrigated land to help spur economic development in the area. To this day, agriculture is the number one industry in the area.

The local impact of the projects is measurable in numbers, but the greatest impacts can only be seen by visiting the area. About 500 family farms rely on these projects for economic subsistence, and the entire area relies on them to create stability in the local economy. In an area that has seen booms and busts in oil, gas, and other commodities, these irrigated lands continued producing and offering a foundation for the businesses in the area.

As we all know, the agricultural economy is not as strong as we'd like to it to be, but these irrigated lands offer a reasonable return over time and are the foundation for strong communities based upon the ideals that have made this country successful The 500 families impacted are hard working, honest producers, and I can think of no better people to manage their own irrigation projects.

Every day, we see an example of where the Federal Government is taking on a new task. We can debate the merits of those efforts on an individual basis, but I think we can all agree that while the government gets involved in new projects, there are many that we can safely pass on to State or local control. The Lower Yellowstone Projects are a prime example of such an opportunity, and I ask my colleagues to join me in seeing this legislation passed as quickly as possible.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD., as follows:

S. 900

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Lower Yellowstone Reclamation Projects Conveyance Act''.

SEC. 2. DEFINITIONS.

In this Act:

(1) DIVERSION WORKS.—The term ''Diversion Works'' means the land in the N½NW¼ of Sec. 36, T.18N., R.56E. P. M., Montana, and the diversion dam structure, canal headworks structure, and the first section of the main canal, all contained therein.

(2) INTAKE IRRIGATION DISTRICT.—The term ''Intake Irrigation District'' means the irrigation district by that name that is organized under the laws of the State of Montana and operates the Intake Project.

(3) INTAKE PROJECT.—The term ''Intake Project'' means the Federal irrigation feature operated by the Intake Irrigation District and authorized under the Act of August 11, 1939 (chapter 717; 53 Stat. 1418).

(4) IRRIGATION DISTRICTS.—The term ''irrigation districts'' means—

(A) the Intake Irrigation District;

(B) the Lower Yellowstone Irrigation District No. 1;

(C) the Lower Yellowstone Irrigation District No. 2; and

(D) the Savage Irrigation District.

(5) LOWER YELLOWSTONE IRRIGATION DISTRICT NO. 1.—The term ''Lower Yellowstone Irrigation District No. 1'' means the irrigation district by that name that is organized under the laws of the State of Montana and operates the part of the Lower Yellowstone Irrigation Project located in the State of Montana.

(6) LOWER YELLOWSTONE IRRIGATION DISTRICT NO. 2.—The term ''Lower Yellowstone Irrigation District No. 2'' means the irrigation district by that name that is organized under the laws of the State of North Dakota and operates the part of the Lower Yellowstone Irrigation Project located in the State of North Dakota.

(7) LOWER YELLOWSTONE IRRIGATION PROJECT.—The term ''Lower Yellowstone Irrigation Project'' means the Federal irrigation feature operated by Lower Yellowstone Irrigation District No. 1 and Lower Yellowstone Irrigation District No. 2 and authorized by the Act of June 17, 1902 (chapter 1093; 32 Stat. 388).

(8) MEMORANDUM OF UNDERSTANDING.—The term ''Memorandum of Understanding'' means the memorandum of understanding dated November 16, 1999, and any subsequent replacements or amendments between the Districts and the Montana Area Office, Great Plains Region, Bureau of Reclamation, for the purpose of defining certain principles by which the title to the projects will be transferred from the United States to the districts.

(9) PICK-SLOAN MISSOURI BASIN PROGRAM.—The term ''Pick-Sloan Missouri Basin Program'' means the comprehensive Federal program for multipurpose benefits within the Missouri River Basin, including irrigation authorized by section 9 of the Act of December 22, 1944, commonly known as the ''Flood Control Act of 1944'' (chapter 665; 58 Stat. 891).

(10) PICK-SLOAN MISSOURI BASIN PROGRAM PROJECT USE POWER.—The term ''Pick-Sloan Missouri Basin Program Project Use Power'' means power available for establishing and maintaining the irrigation developments of the Pick-Sloan Missouri Basin Program.

(11) PROJECTS.—The term ''Projects'' means—

(A) the Lower Yellowstone Irrigation Project;

(B) the Intake Irrigation Project; and

(C) the Savage Unit.

(12) SAVAGE IRRIGATION DISTRICT.—The term ''Savage Irrigation District'' means the irrigation district by that name that is organized under the laws of the State of Montana and operates the Savage Unit.

(13) SAVAGE UNIT.—The term ''Savage Unit'' means the Savage Unit of the Pick-Sloan Missouri Basin Program, a Federal irrigation development authorized by the Act of December 22, 1944 (commonly known as the ''Flood Control Act of 1944'') (chapter 665; 58 Stat. 891).

(14) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SEC. 3. CONVEYANCE OF PROJECTS.

(a) CONVEYANCES.—

(1) GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall convey works, facilities, and lands of the Projects to the Irrigation Districts in accordance with all applicable laws and pursuant to the terms of the Memorandum of Understanding. The conveyance shall take place in two stages, the first stage to include all conveyances under this Act except Diversion Works and the second stage to convey the Diversion Works.

(2) LANDS.—

(A) GENERAL.—All lands, easements, and rights-of-way the United States possesses that are to be conveyed by the Secretary to the respective irrigation districts shall be conveyed by quitclaim deed. Conveyance of such lands, easements, and rights-of-way is subject to permits, licenses, leases, rights-of-use, or right-of-way of record outstanding in third parties on, over, or across such lands, easements, and rights-of-way.

(B) MINERAL RIGHTS.—Conveyance of all lands herein described shall be subject to a reservation by the United States reserving all minerals of a nature whatsoever, excluding sand and gravel, and subject to oil, gas, and other mineral rights heretofore reserved of record by or in favor of third parties.

(3) WATER RIGHTS.—The Secretary shall transfer to the respective Irrigation Districts in accordance with and subject to the law of the State of Montana, all natural flow, wastewater, seepage, return flow, domestic water, stock water, and groundwater rights held in part or wholly in the name of the United States that are used to serve the lands within the Irrigation Districts.

(4) COSTS.—

(A) RECLAMATION WITHDRAWN LANDS.—The Irrigation Districts shall purchase Reclamation withdrawn lands as identified in the Memorandum of Understanding for their value in providing operation and maintenance benefits to the Irrigation Districts.

(B) SAVAGE UNIT REPAYMENT OBLIGATIONS.—

(i) SAVAGE IRRIGATION DISTRICT.—As a condition of transfer, the Secretary shall receive an amount from the Savage Irrigation District equal to the present value of the remaining water supply repayment obligation of $60,480 that shall be treated as full payment under Contract Number I1r–1525, as amended and as extended by Contract No. 9–07–60–WO770.

(ii) PICK-SLOAN MISSOURI BASIN PROGRAM CONSTRUCTION OBLIGATION.—As a condition of transfer, the Secretary shall accept $94,727 as payment from the Pick-Sloan Missouri Basin Program (Eastern Division) power customers under the terms specified in this section, as consideration for the conveyance under this subsection. This payment shall be out of the receipts from the sale of power from the Pick-Sloan Missouri Basin Program (Eastern Division) collected by the Western Area Power Administration and deposited into the Reclamation fund of the Treasury in fiscal year 2003. This payment shall be treated as full and complete payment by the power customers of the construction aid-to-irrigation associated with the facilities of the Savage Unit.

(b) REVOCATION OF RECLAMATION WITHDRAWALS AND ORDERS.—

(1) The Reclamation withdrawal established by Public Land Order 4711 dated October 6, 1969, for the Lower Yellowstone Irrigation Project in lots 1 and 2, section 3, T.23N., R. 59 E., is hereby revoked in its entirety.

(2) The Secretarial Order of March 22, 1906, which was issued for irrigation works on lots 3 and 4 section 2, T. 23N., R. 59E., and Secretarial Order of August 8, 1905, which was issued for irrigation works in section 2, T. 17 N., R. 56 E. and section 6, T. 17 N., R. 57 E., are hereby revoked in their entirety.

(3) The Secretarial Order of August 24, 1903, and July 27, 1908, which were issued in connection with the Lower Yellowstone Irrigation Project, are revoked insofar as they affect the following lands:

(A) Lot 9 of Sec. 2 and lot 2 of Sec. 30, T.18N., R.57E.; lot 3 of Sec. 4, T.19N., R.58E.; lots 2 and 3 and 6 and 7 of Sec. 12, T.21N, R.58E.; SW¼NW¼ of Sec. 26, T.22N., R58E; lots 1 and 4 and 7 and NW¼SW¼ of Sec. 20, T.22N., R.59E.; SE¼NE¼ of Sec. 13, T.23N., R.59E.; and lot 2 of Sec. 18, T.24N., R.60E.; all in the Principal Meridian, Montana.

(B) Lot 8 of Sec. 2 and lot 1 and lot 2 and lot 3 and NE¼NE¼ of Sec. 10 and lot 2 of Sec. 11 and lot 6 of Sec. 18 and lot 3 of Sec. 35, T.151N., R.104W.; and lot 7 of Sec. 28, T.152N., R.104W.; all in the Fifth Principal Meridian, North Dakota.

SEC. 4. REPORT.

If the conveyance under this Act has not occurred within 2 years after the date of the enactment of this Act for the first stage conveyances as provided in section 3, and 5 years after the date of the enactment of this Act for the second stage conveyances as provided in section 3, the Secretary shall provide a report to the Committee on Resources of the House of Representatives and the Committee on Energy and Resources of the Senate on the status of the transfer and anticipated completion date.

SEC. 5. RECREATION MANAGEMENT.

As a condition of the Conveyance of lands under section 3, the Secretary shall require that Lower Yellowstone Irrigation District No. 1 and Lower Yellowstone Irrigation District No. 2 convey a perpetual conservation easement to the State of Montana, at no cost to the State, for the purposes of protecting, preserving, and enhancing the conservation values and permitting recreation on Federal lands in part to be conveyed under this Act. Lower Yellowstone Irrigation District No 1, Lower Yellowstone Irrigation District No. 2, and the State of Montana have mutually agreed upon such conservation easement.

SEC. 6. PROJECT PUMPING POWER.

The Secretary shall sustain the irrigation developments established by the Lower Yellowstone and Intake Projects and the Savage Unit as components of the irrigation plan under the Pick-Sloan Missouri River Basin Program and shall continue to provide the Irrigation Districts with Pick-Sloan Missouri River Basin Project Use power at the Irrigation Districts' pumping plants, except that the rate shall be at the preference power rate and there shall be no ability-to-pay adjustment.

SEC. 7. YELLOWSTONE RIVER FISHERIES PROTECTION.

(a) GENERAL.—The Secretary, prior to the transfer of title of the Diversion Works and in cooperation with the Irrigation Districts, shall provide fish protection devices to prevent juvenile and adult fish from entering the Main Canal of the Lower Yellowstone Irrigation Project and allow bottom dwelling fish species to migrate above the Project's Intake Diversion Dam.

(b) PARTICIPATION.—The Secretary and the Irrigation District shall work cooperatively in planning, engineering, and constructing the fish protection devices.

(c) CONSTRUCTION SCHEDULE.—Construction of Fish Protection Devices shall be completed within 2 years after the date of enactment of this Act.

(d) MONITORING.—The Secretary, acting through the Commissioner of the Bureau of Reclamation and the Director of the United States Fish and Wildlife Service, prior to the transfer of title of the Diversion Works, shall establish and conduct a monitoring plan to measure the effectiveness of the devices for a period of 2 years after construction is completed.

(e) MODIFICATIONS.—The Commissioner of the Bureau of Reclamation, prior to the transfer of title of the Diversion Works, shall be responsible to modify the devices as necessary to ensure proper functioning. All modifications shall be completed within 3 years after the devices were initially constructed.

(f) COSTS.—Costs incurred in planning, engineering, constructing, monitoring, and modifying all fish protection devices shall be deemed nonreimbursable.

(g) OPERATION, MAINTENANCE, AND REPLACEMENTS RESPONSIBILITY.—Following completion of monitoring and modifications required under this section, the Irrigation Districts shall operate, maintain, and replace the fisheries protection devices in a manner to ensure proper functioning.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to implement this section.

SEC. 8. RELATIONSHIP WITH OTHER LAWS AND FUTURE BENEFITS.

Upon conveyance of the projects under this Act, the Irrigation Districts shall not be subject to the Reclamation laws or entitled to receive any Reclamation benefits under those laws except as provided in section 6.

SEC. 9. LIABILITY.

Effective on the date of conveyance of a project under this Act, the United States shall not be liable under any State or Federal law for damages of any kind arising out of any act, omission, or occurrence relating to the projects, except for damages caused by acts of negligence committed by the United Stated or by its employees, agents, or contractors prior to the date of this conveyance. Nothing in this section shall be considered to increase the liability of the United States beyond that currently provided in chapter 171 of title 28, United States Code, popularly known as the Federal Tort Act.

SEC. 10. COMPLIANCE WITH LAWS.

As a condition of the Conveyances under section 3, the Secretary shall by no later than the date on which the conveyances occur complete appropriate analyses of the transfer in compliance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and other applicable laws.

By Mr. GREGG (for himself, Mr. ENZI, and Mr. COCHRAN):

S. 901. A bill to make technical amendments to the Higher Education Act of 1965, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. GREGG. Mr. President, today I rise to introduce, along with my colleagues Senator ENZI and Senator COCHRAN, the Higher Education Technical Amendments Act of 2003. This legislation makes several technical and non-controversial changes to the Higher Education Act, HEA, and is designed to expand access to higher education, provide relief from burdensome legal requirements, improve the financial aid process, and bring greater clarity to the law.

My bill provides for the re-enactment of two provisions in the HEA that expired at the end of the last fiscal year, and which are of great importance to students, their families, and schools. These provide schools having low student loan default rates with exemptions from the requirement that loan proceeds be disbursed in multiple installments, and the requirement that the disbursement of loan proceeds to first-time undergraduate borrowers be delayed for 30 days after classes start. Thousands of institutions of higher education across America have traditionally counted on these exemptions to save them time and money in the disbursement of their limited financial aid resources. These provisions should also serve as an incentive for schools to keep their default rates low. At a time when both student and institutional budgets are being squeezed, we should do what we can to provide them with relief.

Furthermore, this legislation provides for greater access to federal financial aid for those students participating in distance education programs. Specifically, it provides a waiver to the rule that a school having a 50 percent or more of its students or 50 percent or more of its courses in distance education is ineligible for the Title IV student aid programs. Schools eligible for the waiver must already be participating in the programs and must have low cohort default rates.

This bill will also clarify that the HEA provision that limits the aid eligibility of a student convicted of one or more drug offenses applies only to those offenses that occur while the student is in school and receiving aid. Thus, students who may have had drug problems in the past but who want to turn their lives around through post-secondary education will be able to do so.

The bill makes a number of other beneficial changes to the HEA. Most notably, it: Helps protect home-schooled students by making it clear that institutions of higher education will not lose their institutional eligibility for Federal financial aid by admitting home-schooled students; clarifies the Federal policy on the return of financial aid funds when students withdraw, to better protect students' grant aid; removes barriers to students seeking forbearance from lenders on student loan payments, by eliminating the requirement that new agreements between lenders and borrowers be in writing; instead, the bill allows a lender to accept a request for forbearance over the telephone, as long as a confirmation notice of the agreement reached is provided to the borrower and the borrower's file is updated; makes clear that under the Thurgood Marshall Legal Educational Opportunity Program, the U.S. Department of Education can provide scholarship aid to low-income and minority students to prepare for and attend law school; eases requirements for Hispanic-Serving Institutions, HSIs, by allowing them to apply for federal HSI grants without waiting two years between applications; corrects a drafting error in current law that mistakenly bars students attending certain nonprofit schools of veterinary medicine from eligibility for the Federal Family Education Loan Program; requires the GAO to conduct a study on how institutions of higher education report teacher pass rates on state certification exams; allows financial aid administrators to use ''professional judgment'' to adjust a student's financial need in cases where the student is a ward of the court; and expands the use of technology to provide voter registration material directly to students in a timely manner.

The Higher Education Technical Amendments of 2003 will provide important benefits to our Nation's post-secondary students. I urge my colleagues to support this legislation.

By Ms. LANDRIEU:

S. 902. A bill to declare, under the authority of Congress under Article I, section 8, of the Constitution to ''provide and maintain a Navy'', a national policy for the naval force structure required in order to ''provide for the common defense'' of the United States throughout the 21st century; to the Committee on Armed Services.

Ms. LANDRIEU. Mr. President, article I, section 8, clauses 12 and 13 are the source of Congress' power regarding the Army and the Navy. Interestingly, while clause 12 of the Constitution gives Congress the power to raise and support armies, clause 13 requires Congress to provide and maintain a navy. Thus, while we have discretionary authority with regard to the establishment of an army, the Constitution presumes that we will always have and maintain a navy.

Despite this constitutional duty, our current surface fleet is smaller than our fleet in 1917, the year before we entered World War I. What is worse, the future looks even more bleak. At current build rates, we will sink below a 200 ship navy. In fact, we are building ships at rates unseen since 1932—the height of the great depression.

I submit that this policy is unsustainable. The U.S. Navy is not only a great pillar of American military might, it is an important tool in our diplomacy. American ships conduct about 175 international exercises every year. Yet, in recent years we have had to scale back participation, and in some cases, cancel exercises because the ships were simply not available. These joint exercises improve our ability to coordinate activity with our allies. They allow us to instill American notions of professionalism and service into the navies all around the world, and they give us important intelligence on emerging naval capabilities.

Additionally, the Navy serves as a powerful deterrent in situations short of war. How many situations have we used our Navy as a symbol of American resolve. The firepower and strength represented by a carrier battle group has been important in the Taiwan Straights, in the Sea of Japan and in the Persian Gulf. There is no reason to believe that it will become any less so in future years.

The Quadrennial Defense Review puts the requirements for the number of ships in the Navy at 360. Naval strategists warn that we are already proportioning risk. In other words, we are already deciding what seas we will leave underprotected, so as to ensure that we will have enough ships to cover flash points.

The legislation I am offering today is a simple statement of policy. It states that it is the policy of the United States to return to a Navy of at least 375 ships. This should include 15 carrier battle groups and 15 amphibious ready groups. Yet, even this number is a dramatic decrease from our high point of a 600 ship navy. However, it is an achievable goal, if Congress begins to appropriate resources to the Navy shipbuilding account at reasonable levels.

The bill is based on another policy statement we adopted into law in 1999—the National Missile Defense Act. That law provided guidance to our authorization and appropriations process. It also provide guidance to the President's budget. It has been successful in ensuring that the last two administrations have budgeted sufficient resources to keep our national missile defense program on track. This statement of policy is more important still. It is not a statement about a future technology, it is a statement about a military capability that this country dare not abandon.

I trust that the Senate shares my commitment to the future of our fleet. While it may come at real expense, I know my colleagues share the view that it is an expense worth making. I look forward to working with my colleagues to ensure that this bill is adopted.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bills was ordered to be printed in the RECORD, as follows:

S. 902

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Naval Force Structure Policy Act of 2003''.

SEC. 2. NATIONAL NAVAL FORCE STRUCTURE POLICY.

It is the policy of the United States to rebuild as soon as possible the size of the fleet of the United States Navy to no fewer than 375 vessels in active service, to include 15 aircraft carrier battle groups and 15 amphibious ready groups, in order to ensure peace through strength for the United States throughout the 21st century.

S. 903

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Renewal Community Employment Credit Improvement Act''.

SEC. 2. RENEWAL COMMUNITY EMPLOYERS MAY QUALIFY FOR EMPLOYMENT CREDIT BY EMPLOYING RESIDENTS OF CERTAIN OTHER RENEWAL COMMUNITIES.

(a) IN GENERAL.—Section 1400H(b)(2) of the Internal Revenue Code of 1986 (relating to modification) is amended by striking ''and'' at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting '', and'', and by adding at the end the following new paragraph:

''(3) subsection (d)(1)(B) thereof shall be applied by substituting 'such renewal community, an adjacent renewal community within the same State as such renewal community, or a renewal community within such State which is within 5 miles of any border of such renewal community' for 'such empowerment zone'.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendment made by section 101(a) of the Community Renewal Tax Relief Act of 2000.

By Ms. LANDRIEU:

S. 903. A bill to amend the Internal Revenue Code of 1986 to allow employers in renewal communities to qualify for the renewal community employment credit by employing residents of certain other renewal communities; to the Committee on Finance.

Ms. LANDRIEU. Mr. President, the Renewal Community Program has been a tremendous success in promoting economic growth in my home State of Louisiana. It has boosted local economies and cut unemployment in areas that need it most. The Department of Housing and Urban Development designated 40 urban and rural areas around the country as renewal communities, under the Community Renewal Tax Relief Act of 2000.

Renewal communities can take advantage of wage tax credits, tax deductions, capital gains tax exclusions, and bond financing to stimulate job growth, promote economic development, and create affordable housing. This assistance goes to areas with poverty rates of at least 20 percent, and unemployment rates that are one-and-a-half times the national level. Households in renewal communities have incomes that are 80 percent below the median income of households in their local jurisdictions.

One of the most beneficial business incentives under the program is the wage tax credit an employer can receive for hiring and retaining residents of renewal communities. Businesses can receive up to a $1,500 Federal tax credit for every newly hired or existing employee who lives and works in the Renewal Community.

Louisiana has four renewal communities. One is in New Orleans and the remaining three cover a large portion of the Central and Northern parts of the State. These three renewal communities have common borders. This is a tremendous benefit for Louisiana, but it also creates some problems. Under the rules of the program a business in one renewal community cannot receive the wage tax credit if they hire someone who lives outside that renewal community, even if that person lives in the renewal community right next door.

A good example of what I am talking about is in the northern part of the State. The Ouachita Renewal Community which covers the City of Monroe in Ouachita Parish is surrounded by a number of parishes that fall into the North Louisiana Renewal Community—Morehouse Parish to the north, Richland Parish to the east, Caldwell Parish to the south, and Lincoln Parish to the west. The borders of these two renewal communities are literally two or three miles apart. Monroe is the economic hub of that part of my State. People from Morehouse, Caldwell, and Richland Parishes will naturally look for work there. But under current law, a company in Monroe cannot get a wage tax credit for hiring someone who lives in the renewal community right next door.

The situation in Louisiana is fairly unique. I am not certain whether Congress really anticipated that one State would receive more than one renewal community designation or that those renewal communities would be so close together. I certainly understand the desire to promote economic development in specific areas. That can work if renewal communities are far apart. But when they are so close together as they are around Ouachita Parish, or a little further south in the middle of my State, where the Central Louisiana Renewal Community borders the North Louisiana Renewal Community, then we need to make the program more flexible. A person living in Franklin Parish near the border with Catahoula Parish does not necessarily know that both parishes lie in two different renewal communities. If the closest job is in Catahoula Parish, that is where a Franklin Parish resident is going to go. The problem is that a business in Catahoula Parish would not receive the tax break for hiring the worker from Franklin Parish—only a few miles away.

We need to add some common sense flexibility to the Renewal Community program. Today I am introducing legislation that will allow the employers in one renewal community to hire employees from an adjacent or nearby renewal community and still receive the wage tax credits granted under the Act. This legislation essentially treats renewal communities that are within five miles of each other as one. This bill will make a small change in the Renewal Community program, but it will make a big difference to the people of my state.

This legislation will make a very important program more successful for Louisiana and other states like it. I urge my colleagues to support this bill. I ask unanimous consent that the text of the bill be printed in the RECORD.

By Mr. ROCKEFELLER (for himself, Ms. SNOWE, Mr. BAUCUS, Mr. HATCH, Mr. CONRAD, Mr. KENNEDY, Ms. STABENOW, Mr. BREAUX, Mrs. MURRAY, Mr. DAYTON, Mr. LEAHY, Mr. SCHUMER, and Mr. BURNS):

S. 905. A bill to amend the Internal Revenue Code of 1986 to provide a broadband Internet access tax credit; to the Committee on Finance.

Mr. ROCKEFELLER. Mr. President, I rise today to introduce the Broadband Internet Access Act of 2003. Last year, this bill had broad bipartisan support with 65 cosponsors. Its companion legislation in the House of Representatives had 227 cosponsors. If the Senate considers an appropriately targeted and sized economic growth package, which includes investment incentives for businesses, this legislation should be a priority for inclusion in that legislation as it will help jump start a struggling sector of the economy.

The convergence of computing and communications has fundamentally and forever changed the way America lives and works. Individuals, businesses, schools, libraries, hospitals, and many others, reap the benefits of advanced networked communications exponentially each year. However, where just a decade ago access to low bandwidth telephone facilities met our communications needs, today many people, businesses and other organizations require the ability to transmit and receive large amounts of data quickly—as part of electronic commerce, distance learning, telemedicine, and even for mere access to many web sites. This need will only continue to grow. In the near future, access to broadband services will be as critical as having a telephone.

Over the last several years, companies have built networks that meet today's broadband need as fast as they can. Even with the recent downturn in the telecommunications industry, technology companies continue to roll out the current generation of broadband facilities in urban and suburban areas. They continue to tear up streets to install fiber optics, convert cable TV facilities to broadband telecom applications and develop innovative new DSL technologies. As the economy improves, these companies will greatly expand the rate of deployment of these and other technologies for urban and suburban consumers providing them access to the cutting-edge technologies and services.

Other areas of this country are not as fortunate. In rural and inner city areas access to even the current generation of broadband communications is limited. Investment continues to lag behind wealthier urban and suburban communities. This imbalance has only been exacerbated due to the telecommunications industry's recent financial troubles. In fact, only a limited number of broadband providers exist outside the prosperous areas of big cities and suburban areas nationwide. A few positive signs are occurring though. Small rural telecommunications companies are slowly expanding into providing these services. They are limited in their ability to provide these services because of the expense of installing the infrastructure. This is because in many cases rural areas are more expensive to serve, terrain is difficult and populations are widely dispersed. Importantly, many of our current broadband technologies cannot serve people who live more than eighteen thousand feet from a phone company's central office—which is the case for most rural Americans. In inner cities, companies may believe that lower household income levels will not support a market for their services, so they choose not to invest in these communities. This is a classic situation of market failure that we must address.

The implications for the country if we allow this broadband disparity to continue are alarming. People and businesses in well served communications and computing regions, often located in prosperous urban and suburban communities, will be able to build upon the inherent advantages of a networked economy. People and businesses in other areas, often in rural areas as in inner cities, including many areas in my State of West Virginia, would continue to be at an economic and educational disadvantage.

We have seen how savvy businesses have crushed their competitors who failed to take advantage of technological innovations, businesses in infrastructure-rich areas that already have an advantage, ultimately could crush competitors in infrastructure-poor areas. This is equally true for rural and inner city students, workers trying to gain new skills, and regular individuals who want to participate in the information-based New Economy compete against their non-rural peers. The result could be devastating for Americans who live in rural areas or in our inner cities: job loss, tax revenue loss, brain drain, and business failure concentrated in their communities.

Denying Americans who live in rural areas and inner cities a chance to participate in our information-based global economy is also bad for the national economy. Businesses will be forced to locate their operations and hire their employees in urban locations that have adequate broadband infrastructure, rather than in rural or inner city locations that are otherwise more efficient due to the location of their customers or suppliers, a stable or better workforce, and cheaper production environments. It is not an understatement to say that the deployment of technology could fundamentally transform the future of rural and inner city America.

We have to make a decision on whether or not rural and inner city communities are going to have the same opportunities as their wealthier urban and suburban counterparts. I, along with many of my colleagues, believe they should and must. The Broadband Internet Access Act of 2003 would address this disparity.

The Act would give companies the incentive to build current generation broadband facilities in rural areas by using a very targeted tax credit. It would offer any company that invests in broadband facilities in rural or inner city areas a tax credit equal to ten percent of their investments over the next 5 years. This tax credit will help fight the growing disparity in technology that I just described. The credit is also restricted to investments needed for high-speed broadband telecommunications services. This means that only powerful broadband services are covered. Companies cannot claim that inferior services qualify for the credit. Only facilities that can download data at a rate of speed of 1.0 megabytes per second, and upload data at 180 kilobytes per second qualify. These speeds will allow the broadest possible number of technologies to be eligible for the credit.

In addition, the bill provides a 20 percent tax credit for companies that invest in next generation broadband services. These powerful new services that can deliver data capacities of 22 megabytes per second download and 5 megabytes per second upload will be the infrastructure the economy requires as the digital economy expands. We need to reward the companies who have the foresight to invest in these next generation broadband services—they will benefit the whole country. These limited credits will provide the market the ability to affordably and profitably serve rural and inner city communities.

The Broadband Internet Access Act of 2003 is part of the solution to the critically important digital divide problem. Rural Americans and Americans living in inner cities must have the chance to participate in the technological revolution that shows no signs of abating. Without access to broadband services they will not have this chance. I hope that the Members of this body will support this important bill.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 905

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BROADBAND INTERNET ACCESS TAX CREDIT.

(a) IN GENERAL.—Subpart E of part IV of chapter 1 of the Internal Revenue Code of 1986 (relating to rules for computing investment credit) is amended by inserting after section 48 the following new section:

"SEC. 48A. BROADBAND INTERNET ACCESS CREDIT.

''(a) GENERAL RULE.—For purposes of section 46, the broadband credit for any taxable year is the sum of—

''(1) the current generation broadband credit, plus

''(2) the next generation broadband credit.

''(b) CURRENT GENERATION BROADBAND CREDIT; NEXT GENERATION BROADBAND CREDIT.—For purposes of this section—

''(1) CURRENT GENERATION BROADBAND CREDIT.—The current generation broadband credit for any taxable year is equal to 10 percent of the qualified expenditures incurred with respect to qualified equipment providing current generation broadband services to qualified subscribers and taken into account with respect to such taxable year.

''(2) NEXT GENERATION BROADBAND CREDIT.—The next generation broadband credit for any taxable year is equal to 20 percent of the qualified expenditures incurred with respect to qualified equipment providing next generation broadband services to qualified subscribers and taken into account with respect to such taxable year.

''(c) WHEN EXPENDITURES TAKEN INTO ACCOUNT.—For purposes of this section—

''(1) IN GENERAL.—Qualified expenditures with respect to qualified equipment shall be taken into account with respect to the first taxable year in which—

''(A) current generation broadband services are provided through such equipment to qualified subscribers, or

''(B) next generation broadband services are provided through such equipment to qualified subscribers.

''(2) LIMITATION.—

''(A) IN GENERAL.—Qualified expenditures shall be taken into account under paragraph (1) only with respect to qualified equipment—

''(i) the original use of which commences with the taxpayer, and

''(ii) which is placed in service,

after December 31, 2002.

''(B) SALE-LEASEBACKS.—For purposes of subparagraph (A), if property—

''(i) is originally placed in service after December 31, 2002, by any person, and

''(ii) sold and leased back by such person within 3 months after the date such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback referred to in clause (ii).

''(d) SPECIAL ALLOCATION RULES.—

''(1) CURRENT GENERATION BROADBAND SERVICES.—For purposes of determining the current generation broadband credit under subsection (a)(1) with respect to qualified equipment through which current generation broadband services are provided, if the qualified equipment is capable of serving both qualified subscribers and other subscribers, the qualified expenditures shall be multiplied by a fraction—

''(A) the numerator of which is the sum of the number of potential qualified subscribers within the rural areas and the underserved areas which the equipment is capable of serving with current generation broadband services, and

''(B) the denominator of which is the total potential subscriber population of the area which the equipment is capable of serving with current generation broadband services.

''(2) NEXT GENERATION BROADBAND SERVICES.—For purposes of determining the next generation broadband credit under subsection (a)(2) with respect to qualified equipment through which next generation broadband services are provided, if the qualified equipment is capable of serving both qualified subscribers and other subscribers, the qualified expenditures shall be multiplied by a fraction—

''(A) the numerator of which is the sum of—

''(i) the number of potential qualified subscribers within the rural areas and underserved areas, plus

''(ii) the number of potential qualified subscribers within the area consisting only of residential subscribers not described in clause (i),

which the equipment is capable of serving with next generation broadband services, and

''(B) the denominator of which is the total potential subscriber population of the area which the equipment is capable of serving with next generation broadband services.

''(e) DEFINITIONS.—For purposes of this section—

''(1) ANTENNA.—The term 'antenna' means any device used to transmit or receive signals through the electromagnetic spectrum, including satellite equipment.

''(2) CABLE OPERATOR.—The term 'cable operator' has the meaning given such term by section 602(5) of the Communications Act of 1934 (47 U.S.C. 522(5)).

''(3) COMMERCIAL MOBILE SERVICE CARRIER.—The term 'commercial mobile service carrier' means any person authorized to provide commercial mobile radio service as defined in section 20.3 of title 47, Code of Federal Regulations.

''(4) CURRENT GENERATION BROADBAND SERVICE.—The term 'current generation broadband service' means the transmission of signals at a rate of at least 1,000,000 bits per second to the subscriber and at least 128,000 bits per second from the subscriber.

''(5) MULTIPLEXING OR DEMULTIPLEXING.—The term 'multiplexing' means the transmission of 2 or more signals over a single channel, and the term 'demultiplexing' means the separation of 2 or more signals previously combined by compatible multiplexing equipment.

''(6) NEXT GENERATION BROADBAND SERVICE.—The term 'next generation broadband service' means the transmission of signals at a rate of at least 22,000,000 bits per second to the subscriber (or its equivalent when the data rate is measured before being compressed for transmission) and at least 5,000,000 bits per second from the subscriber (or its equivalent as so measured).

''(7) NONRESIDENTIAL SUBSCRIBER.—The term 'nonresidential subscriber' means any person who purchases broadband services which are delivered to the permanent place of business of such person.

''(8) OPEN VIDEO SYSTEM OPERATOR.—The term 'open video system operator' means any person authorized to provide service under section 653 of the Communications Act of 1934 (47 U.S.C. 573).

''(9) OTHER WIRELESS CARRIER.—The term 'other wireless carrier' means any person (other than a telecommunications carrier, commercial mobile service carrier, cable operator, open video system operator, or satellite carrier) providing current generation broadband services or next generation broadband service to subscribers through the wireless transmission of energy through radio or light waves.

''(10) PACKET SWITCHING.—The term 'packet switching' means controlling or routing the path of a digitized transmission signal which is assembled into packets or cells.

''(11) PROVIDER.—The term 'provider' means, with respect to any qualified equipment any—

''(A) cable operator,

''(B) commercial mobile service carrier,

''(C) open video system operator,

''(D) satellite carrier,

''(E) telecommunications carrier, or

''(F) other wireless carrier,

providing current generation broadband services or next generation broadband services to subscribers through such qualified equipment.

''(12) PROVISION OF SERVICES.—A provider shall be treated as providing services to 1 or more subscribers if—

''(A) such a subscriber has been passed by the provider's equipment and can be connected to such equipment for a standard connection fee,

''(B) the provider is physically able to deliver current generation broadband services or next generation broadband services, as applicable, to such a subscriber without making more than an insignificant investment with respect to such subscriber,

''(C) the provider has made reasonable efforts to make such subscribers aware of the availability of such services,

''(D) such services have been purchased by 1 or more such subscribers, and

''(E) such services are made available to such subscribers at average prices comparable to those at which the provider makes available similar services in any areas in which the provider makes available such services.

''(13) QUALIFIED EQUIPMENT.—

''(A) IN GENERAL.—The term 'qualified equipment' means equipment which provides current generation broadband services or next generation broadband services—

''(i) at least a majority of the time during periods of maximum demand to each subscriber who is utilizing such services, and

''(ii) in a manner substantially the same as such services are provided by the provider to subscribers through equipment with respect to which no credit is allowed under subsection (a)(1).

''(B) ONLY CERTAIN INVESTMENT TAKEN INTO ACCOUNT.—Except as provided in subparagraph (C) or (D), equipment shall be taken into account under subparagraph (A) only to the extent it—

''(i) extends from the last point of switching to the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a telecommunications carrier,

''(ii) extends from the customer side of the mobile telephone switching office to a transmission/receive antenna (including such antenna) owned or leased by a subscriber in the case of a commercial mobile service carrier,

''(iii) extends from the customer side of the headend to the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a cable operator or open video system operator, or

''(iv) extends from a transmission/receive antenna (including such antenna) which transmits and receives signals to or from multiple subscribers, to a transmission/receive antenna (including such antenna) on the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a satellite carrier or other wireless carrier, unless such other wireless carrier is also a telecommunications carrier.

''(C) PACKET SWITCHING EQUIPMENT.—Packet switching equipment, regardless of location, shall be taken into account under subparagraph (A) only if it is deployed in connection with equipment described in subparagraph (B) and is uniquely designed to perform the function of packet switching for current generation broadband services or next generation broadband services, but only if such packet switching is the last in a series of such functions performed in the transmission of a signal to a subscriber or the first in a series of such functions performed in the transmission of a signal from a subscriber.

''(D) MULTIPLEXING AND DEMULTIPLEXING EQUIPMENT.—Multiplexing and demultiplexing equipment shall be taken into account under subparagraph (A) only to the extent it is deployed in connection with equipment described in subparagraph (B) and is uniquely designed to perform the function of multiplexing and demultiplexing packets or cells of data and making associated application adaptions, but only if such multiplexing or demultiplexing equipment is located between packet switching equipment described in subparagraph (C) and the subscriber's premises.

''(14) QUALIFIED EXPENDITURE.—

''(A) IN GENERAL.—The term 'qualified expenditure' means any amount—

''(i) chargeable to capital account with respect to the purchase and installation of qualified equipment (including any upgrades thereto) for which depreciation is allowable under section 168, and

''(ii) incurred after December 31, 2002, and before January 1, 2008.

''(B) CERTAIN SATELLITE EXPENDITURES EXCLUDED.—Such term shall not include any expenditure with respect to the launching of any satellite equipment.

''(C) LEASED EQUIPMENT.—Such term shall include so much of the purchase price paid by the lessor of equipment subject to a lease described in subsection (c)(2)(B) as is attributable to expenditures incurred by the lessee which would otherwise be described in subparagraph (A).

''(15) QUALIFIED SUBSCRIBER.—The term 'qualified subscriber' means—

''(A) with respect to the provision of current generation broadband services—

''(i) any nonresidential subscriber maintaining a permanent place of business in a rural area or underserved area, or

''(ii) any residential subscriber residing in a dwelling located in a rural area or underserved area which is not a saturated market, and

''(B) with respect to the provision of next generation broadband services—

''(i) any nonresidential subscriber maintaining a permanent place of business in a rural area or underserved area, or

''(ii) any residential subscriber.

''(16) RESIDENTIAL SUBSCRIBER.—The term 'residential subscriber' means any individual who purchases broadband services which are delivered to such individual's dwelling.

''(17) RURAL AREA.—The term 'rural area' means any census tract which—

''(A) is not within 10 miles of any incorporated or census designated place containing more than 25,000 people, and

''(B) is not within a county or county equivalent which has an overall population density of more than 500 people per square mile of land.

''(18) RURAL SUBSCRIBER.—The term 'rural subscriber' means any residential subscriber residing in a dwelling located in a rural area or nonresidential subscriber maintaining a permanent place of business located in a rural area.

''(19) SATELLITE CARRIER.—The term 'satellite carrier' means any person using the facilities of a satellite or satellite service licensed by the Federal Communications Commission and operating in the Fixed-Satellite Service under part 25 of title 47 of the Code of Federal Regulations or the Direct Broadcast Satellite Service under part 100 of title 47 of such Code to establish and operate a channel of communications for distribution of signals, and owning or leasing a capacity or service on a satellite in order to provide such distribution.

''(20) SATURATED MARKET.—The term 'saturated market' means any census tract in which, as of the date of the enactment of this section—

''(A) current generation broadband services have been provided by a single provider to 85 percent or more of the total number of potential residential subscribers residing in dwellings located within such census tract, and

''(B) such services can be utilized—

''(i) at least a majority of the time during periods of maximum demand by each such subscriber who is utilizing such services, and

''(ii) in a manner substantially the same as such services are provided by the provider to subscribers through equipment with respect to which no credit is allowed under subsection (a)(1).

''(21) SUBSCRIBER.—The term 'subscriber' means any person who purchases current generation broadband services or next generation broadband services.

''(22) TELECOMMUNICATIONS CARRIER.—The term 'telecommunications carrier' has the meaning given such term by section 3(44) of the Communications Act of 1934 (47 U.S.C. 153(44)), but—

''(A) includes all members of an affiliated group of which a telecommunications carrier is a member, and

''(B) does not include any commercial mobile service carrier.

''(23) TOTAL POTENTIAL SUBSCRIBER POPULATION.—The term 'total potential subscriber population' means, with respect to any area and based on the most recent census data, the total number of potential residential subscribers residing in dwellings located in such area and potential nonresidential subscribers maintaining permanent places of business located in such area.

''(24) UNDERSERVED AREA.—The term 'underserved area' means any census tract which is located in—

''(A) an empowerment zone or enterprise community designated under section 1391,

''(B) the District of Columbia Enterprise Zone established under section 1400,

''(C) a renewal community designated under section 1400E, or

''(D) a low-income community designated under section 45D.

''(25) UNDERSERVED SUBSCRIBER.—The term 'underserved subscriber' means any residential subscriber residing in a dwelling located in an underserved area or nonresidential subscriber maintaining a permanent place of business located in an underserved area.''.

(b) CREDIT TO BE PART OF INVESTMENT CREDIT.—Section 46 of the Internal Revenue Code of 1986 (relating to the amount of investment credit) is amended by striking ''and'' at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting '', and'', and by adding at the end the following:

''(4) the broadband Internet access credit.''

(c) SPECIAL RULE FOR MUTUAL OR COOPERATIVE TELEPHONE COMPANIES.—Section 501(c)(12)(B) of the Internal Revenue Code of 1986 (relating to list of exempt organizations) is amended by striking ''or'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', or'', and by adding at the end the following new clause:

''(v) from the sale of property subject to a lease described in section 48A(c)(2)(B), but only to the extent such income does not in any year exceed an amount equal to the credit for qualified expenditures which would be determined under section 48A for such year if the mutual or cooperative telephone company was not exempt from taxation and was treated as the owner of the property subject to such lease.''.

(d) CONFORMING AMENDMENT.—The table of sections for subpart E of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 48 the following:

''Sec. 48A. Broadband internet access credit.''.

(e) DESIGNATION OF CENSUS TRACTS.—

(1) IN GENERAL.—The Secretary of the Treasury shall, not later than 90 days after the date of the enactment of this Act, designate and publish those census tracts meeting the criteria described in paragraphs (17) and (24) of section 48A(e) of the Internal Revenue Code of 1986 (as added by this section). In making such designations, the Secretary of the Treasury shall consult with such other departments and agencies as the Secretary determines appropriate.

(2) SATURATED MARKET.—

(A) IN GENERAL.—For purposes of designating and publishing those census tracts meeting the criteria described in subsection (e)(20) of such section 48A—

(i) the Secretary of the Treasury shall prescribe not later than 30 days after the date of the enactment of this Act the form upon which any provider which takes the position that it meets such criteria with respect to any census tract shall submit a list of such census tracts (and any other information required by the Secretary) not later than 60 days after the date of the publication of such form, and

(ii) the Secretary of the Treasury shall publish an aggregate list of such census tracts submitted and the applicable providers not later than 30 days after the last date such submissions are allowed under clause (i).

(B) NO SUBSEQUENT LISTS REQUIRED.—The Secretary of the Treasury shall not be required to publish any list of census tracts meeting such criteria subsequent to the list described in subparagraph (A)(ii).

(C) AUTHORITY TO DISREGARD FALSE SUBMISSIONS.—In addition to imposing any other applicable penalties, the Secretary of the Treasury shall have the discretion to disregard any form described in subparagraph (A)(i) on which a provider knowingly submitted false information.

(f) OTHER REGULATORY MATTERS.—

(1) PROHIBITION.—No Federal or State agency or instrumentality shall adopt regulations or ratemaking procedures that would have the effect of confiscating any credit or portion thereof allowed under section 48A of the Internal Revenue Code of 1986 (as added by this section) or otherwise subverting the purpose of this section.

(2) TREASURY REGULATORY AUTHORITY.—It is the intent of Congress in providing the broadband Internet access credit under section 48A of the Internal Revenue Code of 1986 (as added by this section) to provide incentives for the purchase, installation, and connection of equipment and facilities offering expanded broadband access to the Internet for users in certain low income and rural areas of the United States, as well as to residential users nationwide, in a manner that maintains competitive neutrality among the various classes of providers of broadband services. Accordingly, the Secretary of the Treasury shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of section 48A of such Code, including—

(A) regulations to determine how and when a taxpayer that incurs qualified expenditures satisfies the requirements of section 48A of such Code to provide broadband services, and

(B) regulations describing the information, records, and data taxpayers are required to provide the Secretary to substantiate compliance with the requirements of section 48A of such Code.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures incurred after December 31, 2002.

By Ms. STABENOW:

S. 906. A bill to provide for the certification of programs to provide uninsured employees of small business access to health coverage, and for other purposes; to the Committee on Finance.

Ms. STABENOW. Madam President, today I rise to introduce the Health Care Access for Small Businesses Act of 2003.

Last month, thousands of Americans participated in a week-long discussion about covering the uninsured. The sheer breadth of the groups that participated in the unprecedented effort demonstrates the urgency of this issue. Labor unions were united with business groups, doctors with nurses, and charity health care providers with for-profit hospitals and insurance companies. They all came together to call on Congress to find a way to provide health coverage for uninsured Americans.

I was glad to see awareness being raised about who the uninsured are and what it means to be without health coverage in America. There is a great misconception that uninsured Americans are largely unemployed or on Welfare. That is simply not the case. More than 80 percent of uninsured Americans are part of working families, and almost half work for small businesses. If we can help small businesses cover their employees, we will have made great progress in covering the uninsured.

The bill I am introducing today is aimed at making coverage more affordable for employees of small businesses through what is called a ''three-share'' program. The three-share model is an innovative community-based idea that has been working across the U.S. from California to Arkansas to North Carolina; and of course in Michigan.

The name three-share stems from the program's payment structure. Premiums are shared between the employer who pays 30 percent, the employee who pays 30 percent and the community which covers the remaining 40 percent of the cost.

In a three share model, a non-profit or local government entity serves as the manager of the plan. They design a benefit package by negotiating directly with providers or contracting through an insurance company. Then, they recruit small businesses that have not offered insurance coverage to their employees for the past year. The average cost for coverage is about $1,800 per year, much lower than the national average for commercial insurance, which on average costs $3,500 for a single person and $8,500 for a family. Of the $1,800, the employer and employee would each pay approximately $540 and the community would pay about $720.

Different three share plans have received funds for the community portion from various places. In Michigan, most of the money has come from Medicaid funds. A plan in California uses money from the tobacco settlement while a plan in Arkansas raises funds through church events and other community initiatives.

Unfortunately, despite the nuances that distinguish three share plans from one another, they all share a common challenge: they all lack a stable and sustainable funding source for the community share.

If passed, my bill would help alleviate that problem by offering a refundable tax credit to small businesses who participate in three share plans. Businesses would pay their own share plus the community share up front and receive the community share back through a refundable tax credit.

My bill would also encourage the development of more three share plans by providing seed money through the Community Access Program at the Health Resources Services Administration.

This bill would maintain the current employer-based system and leverage every $1 of public money with $2 of private funds. It would not impose any new funding mandates on state or local governments nor would it create new bureaucracy. It is an innovative community-based approach that could work throughout the country if funding is available.

Insuring more working families will also take the pressure off state Medicaid budgets. Adequate care for those presently uninsured will also help slash the billions we wind up spending on uncompensated care.

Finally, I believe providing health care for these families fulfills a moral commitment. No one in America who gets up in the morning and goes to work should go to sleep at night fearful that an illness or injury in the family could wipe out everything they have worked for.

I ask unanimous consent that the text of the bill and a fact sheet be printed in the RECORD.

There being no objeciton, the material was ordered to be printed in the RECORD, as follows:

S. 906

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Health Care Access for Small Businesses Act of 2003''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) For most of the past 16 years, the number of Americans without health insurance has been on the rise, reaching more than 41,000,000 in 2002.

(2) People without health insurance are less likely to get preventive care and often delay or forgo needed care. They are therefore more likely than those with health insurance to be hospitalized for conditions that could have been avoided.

(3) Not only are the health and financial circumstances of uninsured Americans adversely affected by the lack of health insurance, their care is ultimately being paid for in the least efficient manner: after they get sick.

(4) People who were uninsured during any part of 2001 received $99,000,000,000 in care, of which $34,500,000,000 was not paid for either out of pocket or by a private or public insurance source. Federal, State, and local governments covered 85 percent of such uncompensated care, amounting to $30,000,000,000.

(5) Private health insurance enrollees also help pay for uncompensated care through higher premiums.

(6) Covering more Americans will not only contribute to better overall health, it will lower the amount of health care costs assumed by taxpayers, businesses, and consumers.

(7) Helping small businesses gain access to affordable health care benefits is essential to insuring more Americans.

(8) Eighty-two percent of uninsured people are part of working families.

(9) More than ½ of small businesses with less than 50 employees do not offer their employees health insurance.

(10) Innovative community-based solutions have developed and should serve as a model for insuring more Americans.

SEC. 3. THREE-SHARE PROGRAMS.

The Social Security Act (42 U.S.C. 301 et seq.) is amended by adding at the end the following:

''TITLE XXII—PROVIDING FOR THE UNINSURED

''SEC. 2201. THREE-SHARE PROGRAMS.

''(a) CERTIFICATION.—

''(1) IN GENERAL.—The Secretary, acting through the Administrator, shall promulgate regulations for the certification of three-share programs for purposes of section 36 of the Internal Revenue Code.

''(2) THREE-SHARE PROGRAM REQUIREMENTS.—

''(A) IN GENERAL.—The Administrator shall require, for purposes of a certification under regulations under paragraph (1) that each three-share program shall—

''(i) be either a non-profit or local governmental entity;

''(ii) define a region in which such program will provide services;

''(iii) have the capacity to carry out administrative functions of managing health plans, including monthly billings, verification/enrollment of eligible employers and employees, maintenance of membership rosters, development of member materials (such as handbooks and identification cards), customer service, and claims processing; and

''(iv) have community involvement, as determined by the Administrator.

''(B) PAYMENT.—To obtain the certification described in paragraph (1), a three-share program shall pay the costs of services provided under subparagraph (A)(ii) by charging a monthly premium for each covered individual to be divided as follows:

''(i) Not more than thirty percent of such fee shall be paid by a qualified employee desiring coverage under the three-share program.

''(ii) At least seventy percent of such fee shall be paid by the qualified employer of such a qualified employee.

''(3) COVERAGE.—

''(A) IN GENERAL.—To obtain the certification described in paragraph (1) a 3-share program shall provide at least the following benefits:

''(i) Physicians services.

''(ii) In-patient hospital services.

''(iii) Out-patient services.

''(iv) Emergency room visits.

''(v) Emergency ambulance services.

''(vi) Diagnostic lab fees and x-rays.

''(vii) Prescription drug benefits.

''(B) LIMITATION.—Nothing in subparagraph (A) shall be construed to require that a three-share program provide coverage for services performed outside the region described in paragraph (2)(A)(i).

''(C) PREEXISTING CONDITIONS.—A program described in subparagraph (A) shall not be eligible for certification under paragraph (1) if any individual can be excluded from coverage under such program because of a preexisting health condition.

''(b) STARTUP GRANTS FOR THREE-SHARE PROGRAMS.—

''(1) ESTABLISHMENT.—The Administrator may award startup grants to eligible entities to establish three-share programs for certification under subsection (a).

''(2) THREE-SHARE PROGRAM PLAN.—Each entity desiring a grant under this subsection shall develop a plan for the establishment and operation of a three-share program that meets the requirements of paragraphs (2) and (3) of subsection (a).

''(3) APPLICATION.—Each entity desiring a grant under this subsection shall submit an application to the Administrator at such time, in such manner and containing such information as the Administrator may require, including—

''(A) the three-share program plan described in paragraph (2); and

''(B) an assurance that the eligible entity will—

''(i) determine a benefit package;

''(ii) recruit businesses and employees for the three-share program;

''(iii) build and manage a network of health providers or contract with an existing network or licensed insurance provider; and

''(iv) manage all administrative needs.

''(4) NUMBER OF GRANTS.—An eligible entity may receive only 1 grant under this subsection for each three-share program and may not receive a grant for such program under both this subsection and subsection (c).

''(c) GRANTS FOR EXISTING THREE-SHARE PROGRAMS TO MEET CERTIFICATION REQUIREMENTS.—

''(1) IN GENERAL.—The Administrator may award grants to three-share programs that are operating on the date of enactment of this section, to assist such programs in meeting the certification requirements of subsection (a).

''(2) NUMBER OF GRANTS.—An eligible entity may receive only 1 grant under this subsection for a three-share program and may not receive a grant for such program under both this subsection and subsection (b).

''(3) APPLICATION.—Each eligible entity desiring a grant under this subsection shall submit an application to the Administrator at such time, in such manner, and containing such information as the Administrator may require.

''(d) RISK POOL GRANTS.—

''(1) IN GENERAL.—The Administrator may award grants to eligible entities administering certified three-share programs to enhance the risk pools of such programs.

''(2) NUMBER OF GRANTS.—An eligible entity administering a three-share program described in paragraph (1) may receive only 1 grant under this subsection for such three-share program.

''(3) APPLICATION.—Each eligible entity desiring a grant under this subsection shall submit an application to the Administrator at such time, in such manner, and containing such information as the Administrator may require.

''(e) APPLICATION OF STATE LAWS.—Nothing in this Act shall be construed to preempt State law.

''(f) DISTRESSED BUSINESS FORMULA.—

''(1) IN GENERAL.—Not later than 60 days after the date of enactment of this section, the Administrator of the Health Resources and Services Administration shall develop a formula to determine which businesses qualify as distressed businesses for purposes of this Act.

''(2) EFFECT ON INSURANCE MARKET.—Granting eligibility to a distressed business using the formula under paragraph (1) shall not interfere with the insurance market. Any business found to have reduced benefits to qualify as a distressed business under the formula under paragraph (1) shall not be eligible for any three-share program certified pursuant to this section.

''(g) DEFINITIONS.—In this section:

''(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Health Resources and Services Administration.

''(2) COVERED INDIVIDUAL.—The term 'covered individual' means—

''(A) a qualified employee; or

''(B) a child under the age of 23 or a spouse of such qualified employee who—

''(i) lacks access to health care coverage through their employment or employer;

''(ii) lacks access to health coverage through a family member;

''(iii) is not eligible for coverage under the medicare program under title XVIII or the medicaid program under title XIX; and

''(iv) does not qualify for benefits under the State Children's Health Insurance Program under title XXI.

''(3) DISTRESSED BUSINESS.—The term 'distressed business' means a business that—

''(A) in light of economic hardship and rising health care premiums may be forced to discontinue or scale back its health care coverage; and

''(B) qualifies as a distressed business according to the formula under subsection (f).

''(4) ELIGIBLE ENTITY.—The term 'eligible entity' means an entity that meets the requirements of subsection (a)(2)(A).

''(5) FULL TIME.—The term 'full time', for purposes of employment, means regularly working at least 35 hours per week.

''(6) QUALIFIED EMPLOYEE.—The term 'qualified employee' means any individual employed by a qualified employer who meets certain criteria including—

''(A) working full time;

''(B) lacking access to health coverage through a family member or common law partner;

''(C) not being eligible for coverage under the medicare program under title XVIII or the medicaid program under title XIX; and

''(D) agreeing that the share of fees described in subsection (a)(2)(B)(i) shall be paid in the form of payroll deductions from the wages of such individual.

''(7) QUALIFIED EMPLOYER.—The term 'qualified employer' means an employer as defined in section 3(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(d)) who—

''(A) is a small business concern as defined in section 3(a) of the Small Business Act (15 U.S.C. 632);

''(B) is located in the region described in subsection (a)(2)(A)(i); and

''(C) has not contributed to the health care benefits of its employees for at least 12 months consecutively or currently provides insurance but is classified as a distressed business.

''(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $50,000,000 for fiscal year 2004 and such sums as may be necessary for each subsequent fiscal year.''.

SEC. 4. REFUNDABLE CREDIT FOR PORTION OF EMPLOYER COSTS OF THREE-SHARE PROGRAM.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by redesignating section 36 as section 37 and inserting after section 35 the following new section:

''SEC. 36. EMPLOYER COSTS OF THREE-SHARE PROGRAM.

''(a) IN GENERAL.—In the case of an eligible employer, there shall be allowed as a credit against the tax imposed by this subtitle an amount equal to 40 percent of the costs of a three-share program resulting from the participation of the taxpayer in such program during the taxable year.

''(b) ELIGIBLE EMPLOYER.—For purposes of this section, the term 'eligible employer' means any employer which pays or incurs at least 70 percent of the costs of a three-share program resulting from the participation of the taxpayer in such program during the taxable year.

''(c) THREE-SHARE PROGRAM.—For purposes of this section, the term 'three-share program' means an employee health care coverage program approved for participation by an eligible employer pursuant to title XXII of the Social Security Act.

''(d) DENIAL OF DOUBLE BENEFIT.—No deduction or credit under any other provision of this chapter shall be allowed with respect to costs of a three-share program taken into account under subsection (a).

''(e) ADVANCED REFUNDABILITY.—The Secretary shall provide for the advanced refundability of the credit allowed under this section to be made in quarterly payments to taxpayers providing such information as the Secretary requires in order to make a proper determination of such payments.

''(f) REGULATIONS.—The Secretary may prescribe such regulations and other guidance as may be necessary or appropriate to carry out this section.''.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period '', or from section 36 of such Code''.

(2) The table of sections for subpart C of part IV of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the last item and inserting the following new items:

''Sec. 36. Employer costs of three-share program.

''Sec. 37. Overpayments of tax.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

HEALTH CARE ACCESS FOR SMALL BUSINESSES ACT OF 2003

Creating affordable health insurance for small businesses is key to reducing the number of uninsured Americans. Dozens of communities around the country, using seed money from a federal grant program called the Community Access Program (CAP), have developed and implemented a unique way to make health coverage affordable to small businesses through ''three-share'' programs.

THREE-SHARE PROGRAMS

A three-share program is a community-based health plan that is paid for jointly by the employer, employee and the community.

Under a typical three-share model, a community-based entity, either a non-profit or local government does the following:

1. Works with local health care providers or an insurance entity to develop a benefit package;

2. Signs up small businesses in the community that do not offer health insurance to their employees; and

3. Takes responsibility for administering the program.

An enrolled small business and their employees each pay 30 percent of the monthly premium while the community pays the remaining 40 percent.

thousands of Americans who previously went without health insurance are now covered through three-share programs. Unfortunately, entities managing these programs are struggling to secure a steady revenue source for the community share of the costs.

THE HEALTH INSURANCE ACCESS FOR SMALL BUSINESSES ACT OF 2003

The Health Insurance Access for Small Businesses Act of 2003 encourages the development of more three-share programs by increasing seed money for non-profits or local governments interested in creating a program in their community. The bill provides sustainable funding for the community share if the costs through a refundable tax credit for small businesses.

Expand seed funding for three-share through Community Access Program (CAP)—CAP is a grant program designed to help communities expand coverage to the uninsured that has helped many non-profits and local governments start three-share programs. Funding is authorized to increase by $50 million for FY04.

Refundable tax credit for the community portion—This bill will establish a steady revenue stream for the third share through a refundable tax credit to the employer. The employee would pay 30 percent of the premium through payroll deductions. The employer would pay their 30 percent of the premium plus the 40 percent that is the community share. The 40 percent would be returned to the business through a refundable tax credit.

SPECIFICS

Target group: Small businesses not currently offering health coverage to employees or distressed small businesses, as defined by the Small Business Act, that are in jeopardy of dropping health coverage because of rising premiums and economic hardship.

Employer Eligibility:

Located within a community defined by the administering entity

Has not offered or contributed to health care benefits of employees for previous 12 consecutive months

Qualifies as a ''distressed business'' under HRSA regulations.

Employee Eligibility:

Works full time (a minimum of 35 hours);

Lacks access to health coverage through employer;

Lacks access to health coverage through a family member or common law partner;

Is not eligible for Medicaid or Medicare;

Agrees to payroll deductions.

Family Eligibility:

Spouse of participating employee not covered through their employer or any public insurance program;

Dependent of participating employee under the age of 23 not eligible for SCHIP.

Shared Premiums: Average benefit is estimated to be $540 per year for an employee, $540 for employer and $720 will be refunded through the tax credit to the employer.

Employer pays 30 percent of annual cost;

Employee pays 30 percent of annual cost;

Refundable tax credit to employer for 40 percent of the total annual cost.

Minimum Benefits: All benefit packages must include the following:

Physicians services;

In-patient hospital services;

Out-patient services;

Emergency room visits;

Emergency ambulance services;

Diagnostic lab and x-rays;

Prescription drug benefits.

Note.—People may not be excluded because of pre-existing conditions. Coverage for services performed outside designated regional area not required.

By Mr. SPECTER:

S. 907. A bill to amend the Internal Revenue Code of 1986 to impose a flat tax only on individual taxable earned income and business taxable income, and for other purposes; to the Committee on Finance.

Mr. SPECTER. Madam President, I rise to speak about the subject of taxation from a little different perspective, a legislative proposal which, if adopted, would add very considerably to productivity in America, and that is a proposal for a flat tax. In the fall of 1994, Richard Armey of the House of Representatives introduced a flat tax. I studied it, then in the spring of 1995, I introduced a flat tax for the Senate. That was the first one introduced. I have introduced it in successive years.

I usually pick April 15, because April 15 is tax filing day. But this year we are going to be in recess for the spring break. I had thought today would be the last day we would be in session. That is open to debate at this point. I just came from a conference of the Appropriations Committee, and there are a great many unresolved issues. I posed the question to my colleagues on the Appropriations Committee: What time do we vote on Sunday?

Some of my colleagues may be listening on C–SPAN2, and that will give them a jolt: What time do we vote on Sunday? Or we might not vote as early as Sunday. We might pick a time on Monday.

I got the attention of the clerks, too, by talking about something important: When are we going to finish the business of the Senate? The distinguished Parliamentarian is nodding his head in chagrin as to what is happening here.

Some suggestions have been floated around the Appropriations Committee of a way to solve this impasse between the House and the Senate on appropriations, the impasse between the House and the Senate on the budget, and that is a constitutional amendment for a unicameral legislature. That would be a shocker. For anybody watching C–SPAN2, that means one chamber. Then the question would come up: Which chamber will it be?

Nobody is going to go to a unicameral legislature, and I do not know when we are going to conclude the business of the Senate. I may be offering this flat tax legislation on the wrong day. Perhaps I ought to wait, because we may still be here on April 15, which would be next Tuesday.

In all seriousness, we have the most extraordinarily complex system for filing taxes ever devised. In the midst of an overwhelming bureaucracy and a regulatory system in Washington, DC, nothing compares to the Federal tax code.

The Federal tax code has grown from 744,000 words in 1955 to 6.9 million words and 17,000 pages at the present time. A study showed that more than 13 hours are consumed by the average American—rather, more than 13 hours are consumed on average—there is no such thing as an average American—on average by taxpayers in filling out the principal Form 1040. And if one goes to the various schedules, it can be another 5½ hours or 7½ hours.

I just finished filling out my tax return, and it is inordinately complicated. It is insufficient to be a Philadelphia lawyer to understand the Federal tax code, and then the State taxes, and then city taxes, the wage tax, the property tax, and the real estate tax. It is a nightmare.

It is possible to change all of that by going to a flat tax, and then the tax return would be on a postcard. The wonders of television. People can see the postcard. It will take about 15 minutes to fill out a postcard, which would identify the individual, specify the total compensation, specify the allowance, the number of dependents, and in the course of 15 minutes it would be finished.

This tax would be calculated on a flat rate of 20 percent. It would be very beneficial to people at all levels of the income strata except for those who engage in tax shelters. The average American today, or in the middle income, a family of four, which does not itemize deductions, pays taxes on all income over $19,850. Under this flat tax, there would be a personal exemption of $27,500 for a family of four, and taxes would be paid only over that amount.

After having just criticized charts, my staff has brought me a chart which they prepared. I certainly would not want to omit the showing of this chart. The writing is too small for reading on C–SPAN2, but it specifies the identity of the person, the total compensation, the personal allowance, and it can be filled out in the course of 15 minutes.

A superior depiction, in my opinion, is the postcard. People can deal more easily with postcards than they can with charts.

I have provided for two deductions which I am maintaining, deductions on interest and charitable contributions. It may be that ultimately we will have a totally flat tax, which would reduce another percent down to 19 percent. I have included interest on home mortgages because it is so prevalent, and I believe Americans might be very surprised not to be able to deduct their interest on home mortgages. That interest on home mortgages has been a great stimulus for housing construction and also a great encouragement for people to own their own homes. That is very important as a societal matter.

I have also retained the deduction on charitable contributions, which remains very important. That was reinforced by the Senate earlier this week by providing an increase in charitable contributions deductibility looking toward faith-based initiatives.

What I would like to do most emphatically would be to get the debate started. This body, the House, and the Treasury Department have never seriously considered a flat tax. It ought to be seriously considered. Whether it would be accepted or not would be the outcome of the debate. The flat tax proposal which I am bringing to you today, which is modeled after the outline by Professor Hall and Professor Rabushka of Stanford University, has been very carefully thought through. It is a neutral tax scheme. An analysis of people at various income levels shows that it is universally beneficial for all except those who engage in tax shelters and pay no tax at all.

The greatest benefit would be the savings to the American people of some 5.8 billion hours a year and some $194 billion in preparation expenses. I have actually seen estimates on the cost of tax compliance as high as $800 billion. Again, these estimates are such that nobody really knows, but as lawyers say in litigation, the pain and suffering that goes with filing these returns, or the cruel and unusual punishment involved in making these computations and the study involved, it would be a great relief to the American people. It would be win, win, win. There would be great savings in time. There would be savings in individual taxes, and there would be a tremendous stimulus to the economy so that so many corporations and businesses would no longer have to have a special office, which is the practice in many places, for the tax collector who comes in to conduct the audit on a yearly basis.

To reiterate, in less than one week, American taxpayers face another Federal income tax deadline. The date of April 15 stabs fear, anxiety, and unease into the hearts of millions of Americans. Every year during ''tax season,'' millions of Americans spend their evenings poring over page after page of IRS instructions, going through their records looking for information, and struggling to find and fill out all the appropriate forms on their Federal tax returns. Americans are intimidated by the sheer number of different tax forms and their instructions, many of which they may be unsure whether they need to file. Given the approximately 325 possible forms, not to mention the instructions that accompany, simply trying to determine which form to file can in itself be a daunting and overwhelming task. According to the Tax Foundation, American taxpayers, including businesses, spend more than 5.8 billion hours and $194 billion each year in complying with tax laws. That works out to more than $2,400 per U.S. household. Much of this time is spent burrowing through IRS laws and regulations which fill 17,000 pages and have grown from 744,000 words in 1955 to over 6.9 million words in 2000. By contrast, the Pledge of Allegiance has only 31 words, the Gettysburg Address has 267 words, the Declaration of Independence has about 1,300 words, and the Bible has only about 1,773,000 words.

The majority of taxpayers still face filing tax forms that are far too complicated and take far too long to complete. According to the estimated preparation time listed on the forms by the IRS, the 2002 Form 1040 is estimated to take 13 hours and 10 minutes to complete. Moreover this does not include the estimated time to complete the accompanying schedules, such as Schedule A, for itemized deductions, which carries an estimated preparation time of 5 hours, 37 minutes, or Schedule D, for reporting capital gains and losses, shows an estimated preparation time of 7 hours, 35 minutes. Moreover, this complexity is getting worse each year. Just from 1998 to 2002 the estimated time to prepare Form 1040 jumped 96 minutes.

It is no wonder that well over half of all taxpayers, 56 percent according to a recent survey now hire an outside professional to prepare their tax returns for them. However, the fact that only 29 percent of individuals itemize their deductions shows that a significant percentage of our taxpaying population believes that the tax system is too complex for them to deal with. We all understand that paying taxes will never be something we enjoy, but neither should it be cruel and unusual punishment. Further, the pace of change to the Internal Revenue Code is brisk—Congress made about 9,500 Tax Code changes in the past 12 years. And we are far from being finished. Year after year, we continue to ask the same question—is there not a better way?

My flat tax legislation would make filing a tax return a manageable chore, not a seemingly endless nightmare, for most taxpayers. My flat tax legislation will fundamentally revise the present Tax Code, with its myriad rates, deductions, and instructions. This legislation would institute a simple, flat 20 percent tax rate for all individuals and businesses. This proposal is not cast in stone but is intended to move the debate forward by focusing attention on three key principles which are critical to an effective and equitable taxation system: simplicity, fairness, and economic growth.

My flat tax plan would eliminate the kinds of frustrations I have outlined above for millions of taxpayers. This flat tax would enable us to scrap the great majority of the IRS rules, regulations, and instructions and delete most of the 6.9 million words in the Internal Revenue Code. Instead of billions of hours of non-productive time spent in compliance with, or avoidance of, the tax code, taxpayers would spend only the small amount of time necessary to fill out a postcard-sized form. Both business and individual taxpayers would thus find valuable hours freed up to engage in productive business activity or for more time with their families instead of poring over tax tables, schedules, and regulations.

My flat tax proposal is dramatic, but so are its advantages: a taxation system that is simple, fair and designed to maximize prosperity for all Americans. A summary of the key advantages are:

A 10-line postcard filing would replace the myriad forms and attachments currently required, thus saving Americans up to 5.8 billion hours they currently spend every year in tax compliance.

The flat tax would eliminate the lion's share of IRS rules, regulations and requirements, which have grown from 744,000 words in 1955 to 6.9 million words and 17,000 pages currently. It would also allow us to slash the mammoth IRS bureaucracy of 117,000 employees.

Economists estimate a growth of over $2 trillion in national wealth over 7 years, representing an increase of approximately $7,500 in personal wealth for every man, woman, and child in America. This growth would also lead to the creation of 6 million new jobs.

Investment decisions would be made on the basis of productivity rather than simply for tax avoidance, thus leading to even greater economic expansion.

Economic forecasts indicate that interest rates would fall substantially, by as much as two points, as the flat tax removes many of the current disincentives to savings.

Americans would be able to save up to $194 billion they currently spend every year in tax compliance.

As tax loopholes are eliminated and the tax code is simplified, there will be far less opportunity for tax avoidance and fraud, which now amounts to over $120 billion in uncollected revenue annually.

Simplification of the tax code will allow us to save significantly on the $7 billion annual budget currently allocated to the Internal Revenue Service.

The most dramatic way to show what the flat tax is to consider that the income tax form for the flat tax is printed on a postcard—it will allow all taxpayers to file their April 15 tax returns on a simple 10-line postcard. This postcard will take 15 minutes to fill out.

At my town hall meetings across Pennsylvania, the public support for fundamental tax reform is overwhelming. I would point out that in those speeches that I never leave home without two key documents: 1, my copy of the Constitution; and, 2, a copy of my 10-line flat tax postcard. I soon realized that I needed more than just one copy of my flat tax postcard. Many people wanted their own postcard so that they could see what life in a flat tax world would be like, where tax returns only take 15 minutes to fill out and individual taxpayers are no longer burdened with double taxation on their dividends, interest, capital gains and estates.

This is a win-win situation for America because it lowers the tax burden on the taxpayers in the lower brackets. For example in the 2002 tax year, the standard deduction is $4,700 for a single taxpayer, $6,900 for a head of household and $7,850 for a married couple filing jointly, while the personal exemption for individuals and dependents is $3,000. Thus, under the current tax code, a family of four which does not itemize deductions would pay taxes on all income over $19,850—these are personal exemptions of $12,000 and a standard deduction of $7,850. By contrast, under my flat tax bill, that same family would receive a personal exemption of $27,500, and would pay tax on only income over that amount.

The tax loopholes enable write-offs to save some $393 billion a year. What is eliminated under the flat tax are the loopholes, the deductions in this complicated code which can be deciphered, interpreted, and found really only by the $500-an-hour lawyers. That money is lost to the taxpayers. $120 billion would be saved by the elimination of fraud because of the simplicity of the tax code, the taxpayer being able to find out exactly what he or she owes.

This bill is modeled after legislation organized and written by two very distinguished professors of law at Stanford University, Professor Hall and Professor Rabushka. Their model was first introduced in the Congress in the fall of 1994 by Majority Leader Richard Armey. I introduced the flat tax bill—the first one in the Senate—on March 2, 1995, S. 488. On October 27, 1995, I introduced a Sense of the Senate, resolution calling on my colleagues to expedite Congressional adoption of a flat tax. The Resolution, which was introduced as an amendment to pending legislation, was not adopted. I reintroduced this legislation in the 105th Congress with slight modifications to reflect inflation-adjusted increases in the personal allowances and dependent allowances. I re-introduced the bill two Congresses ago on April 15, 1999—income tax day—in a bill denominated as S. 822. More recently, I introduced my flat tax legislation as an amendment to S. 1429, the Tax Reconciliation bill. The amendment was not adopted.

Over the years and prior to my legislative efforts on behalf of flat tax reform, I have devoted considerable time and attention to analyzing our Nation's Tax Code and the policies which underlie it. I began the study of the complexities of the Tax Code over 40 years ago as a law student at Yale University. I included some tax law as part of my practice in my early years as an attorney in Philadelphia. In the spring of 1962, I published a law review article in the Villanova Law Review, ''Pension and Profit Sharing Plans: Coverage and Operations for Closely Held Corporations and Professional Associations,'' 7 Villanova L. Rev. 335, which in part focused on the inequity in making tax-exempt retirement benefits available to some kinds of businesses but not others. It was apparent then, as it is now, that the very complexities of the Internal Revenue Code could be used to give unfair advantage to some. Einstein himself is quoted as saying ''the hardest thing in the world to understand is the income tax.''

The Hall-Rabushka model envisioned a flat tax with no deductions whatever. After considerable reflection, I decided to include in the legislation limited deductions for home mortgage interest for up to $100,000 in borrowing and charitable contributions up to $2,500. While these modifications undercut the pure principle of the flat tax by continuing the use of tax policy to promote home buying and charitable contributions, I believe that those two deductions are so deeply ingrained in the financial planning of American families that they should be retained as a matter of fairness and public policy—and also political practicality. With only those two deductions maintained, passage of a modified flat tax will be difficult, but without them, probably impossible.

In my judgment, an indispensable prerequisite to enactment of a modified flat tax is revenue neutrality. Professor Hall advised that the revenue neutrality of the Hall-Rabushka proposal, which uses a 19-percent rate, is based on a well-documented model founded on reliable governmental statistics. My legislation raises that rate from 19 percent to 20 percent to accommodate retaining limited home mortgage interest and charitable deductions.

This proposal taxes business revenues fully at their source so that there is no personal taxation on interest, dividends, capital gains, gifts or estates. Restructured in this way, the Tax Code can become a powerful incentive for savings and investment—which translates into economic growth and expansion, more and better jobs, and raising the standard of living for all Americans.

The key advantages of this flat tax plan are threefold: First, it will dramatically simplify the payment of taxes. Second, it will remove much of the IRS regulatory morass now imposed on individual and corporate taxpayers and allow those taxpayers to devote more of their energies to productive pursuits. Third, since it is a plan which rewards savings and investment, the flat tax will spur economic growth in all sectors of the economy as more money flows into investments and savings accounts.

Professors Hall and Rabushka have projected that within 7 years of enactment, this type of a flat tax would produce a 6-percent increase in output from increased total work in the U.S. economy and increased capital formation. The economic growth would mean a $7,500 increase in the personal income of all Americans. No one likes to pay taxes. But Americans will be much more willing to pay their taxes under a system that they believe is fair, a system that they can understand, and a system that they recognize promotes rather than prevents growth and prosperity. My flat tax legislation will afford Americans such a tax system.

I ask unanimous consent that the bill, be printed in the RECORD.

S. 907

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the ''Flat Tax Act of 2003''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents; amendment of 1986 Code.
Sec. 2. Flat tax on individual taxable earned income and business taxable income.
Sec. 3. Repeal of estate and gift taxes.
Sec. 4. Additional repeals.
Sec. 5. Effective dates.

(c) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. FLAT TAX ON INDIVIDUAL TAXABLE EARNED INCOME AND BUSINESS TAXABLE INCOME.

(a) IN GENERAL.—Subchapter A of chapter 1 of subtitle A is amended to read as follows:

''Subchapter A—Determination of Tax Liability

''Part I. Tax on individuals.
''Part II. Tax on business activities.

''PART I—TAX ON INDIVIDUALS

''Sec. 1. Tax imposed.
''Sec. 2. Standard deduction.
''Sec. 3. Deduction for cash charitable contributions.
''Sec. 4. Deduction for home acquisition indebtedness.
''Sec. 5. Definitions and special rules.

''SECTION 1. TAX IMPOSED.

''(a) IMPOSITION OF TAX.—There is hereby imposed on every individual a tax equal to 20

percent of the taxable earned income of such individual.

''(b) TAXABLE EARNED INCOME.—For purposes of this section, the term 'taxable earned income' means the excess (if any) of—

''(1) the earned income received or accrued during the taxable year, over

''(2) the sum of—

''(A) the standard deduction,

''(B) the deduction for cash charitable contributions, and

''(C) the deduction for home acquisition indebtedness,

for such taxable year.

''(c) EARNED INCOME.—For purposes of this section—

''(1) IN GENERAL.—The term 'earned income' means wages, salaries, or professional fees, and other amounts received from sources within the United States as compensation for personal services actually rendered, but does not include that part of compensation derived by the taxpayer for personal services rendered by the taxpayer to a corporation which represents a distribution of earnings or profits rather than a reasonable allowance as compensation for the personal services actually rendered.

''(2) TAXPAYER ENGAGED IN TRADE OR BUSINESS.—In the case of a taxpayer engaged in a trade or business in which both personal services and capital are material income-producing factors, under regulations prescribed by the Secretary, a reasonable allowance as compensation for the personal services rendered by the taxpayer, not in excess of 30 percent of the taxpayer's share of the net profits of such trade or business, shall be considered as earned income.

''SEC. 2. STANDARD DEDUCTION.

''(a) IN GENERAL.—For purposes of this subtitle, the term 'standard deduction' means the sum of—

''(1) the basic standard deduction, plus

''(2) the additional standard deduction.

''(b) BASIC STANDARD DEDUCTION.—For purposes of subsection (a), the basic standard deduction is—

''(1) $17,500 in the case of—

''(A) a joint return, and

''(B) a surviving spouse (as defined in section 5(a)),

''(2) $15,000 in the case of a head of household (as defined in section 5(b)), and

''(3) $10,000 in the case of an individual—

''(A) who is not married and who is not a surviving spouse or head of household, or

''(B) who is a married individual filing a separate return.

''(c) ADDITIONAL STANDARD DEDUCTION.—For purposes of subsection (a), the additional standard deduction is $5,000 for each dependent (as defined in section 5(d))—

''(1) whose earned income for the calendar year in which the taxable year of the taxpayer begins is less than the basic standard deduction specified in subsection (b)(3), or

''(2) who is a child of the taxpayer and who—

''(A) has not attained the age of 19 at the close of the calendar year in which the taxable year of the taxpayer begins, or

''(B) is a student who has not attained the age of 24 at the close of such calendar year.

''(d) INFLATION ADJUSTMENT.—

''(1) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 2004, each dollar amount contained in subsections (b) and (c) shall be increased by an amount equal to—

''(A) such dollar amount, multiplied by

''(B) the cost-of-living adjustment for the calendar year in which the taxable year begins.

''(2) COST-OF-LIVING ADJUSTMENT.—For purposes of paragraph (1), the cost-of-living adjustment for any calendar year is the percentage (if any) by which—

''(A) the CPI for the preceding calendar year, exceeds

''(B) the CPI for calendar year 2003.

''(3) CPI FOR ANY CALENDAR YEAR.—For purposes of paragraph (2), the CPI for any calendar year is the average of the Consumer Price Index as of the close of the 12-month period ending on August 31 of such calendar year.

''(4) CONSUMER PRICE INDEX.—For purposes of paragraph (3), the term 'Consumer Price Index' means the last Consumer Price Index for all-urban consumers published by the Department of Labor. For purposes of the preceding sentence, the revision of the Consumer Price Index which is most consistent with the Consumer Price Index for calendar year 1986 shall be used.

''(5) ROUNDING.—If any increase determined under paragraph (1) is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50.

''SEC. 3. DEDUCTION FOR CASH CHARITABLE CONTRIBUTIONS.

''(a) GENERAL RULE.—For purposes of this part, there shall be allowed as a deduction any charitable contribution (as defined in subsection (b)) not to exceed $2,500 ($1,250, in the case of a married individual filing a separate return), payment of which is made within the taxable year.

''(b) CHARITABLE CONTRIBUTION DEFINED.—For purposes of this section, the term 'charitable contribution' means a contribution or gift of cash or its equivalent to or for the use of the following:

''(1) A State, a possession of the United States, or any political subdivision of any of the foregoing, or the United States or the District of Columbia, but only if the contribution or gift is made for exclusively public purposes.

''(2) A corporation, trust, or community chest, fund, or foundation—

''(A) created or organized in the United States or in any possession thereof, or under the law of the United States, any State, the District of Columbia, or any possession of the United States,

''(B) organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals,

''(C) no part of the net earnings of which inures to the benefit of any private shareholder or individual, and

''(D) which is not disqualified for tax exemption under section 501(c)(3) by reason of attempting to influence legislation, and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

A contribution or gift by a corporation to a trust, chest, fund, or foundation shall be deductible by reason of this paragraph only if it is to be used within the United States or any of its possessions exclusively for purposes specified in subparagraph (B). Rules similar to the rules of section 501(j) shall apply for purposes of this paragraph.

''(3) A post or organization of war veterans, or an auxiliary unit or society of, or trust or foundation for, any such post or organization—

''(A) organized in the United States or any of its possessions, and

''(B) no part of the net earnings of which inures to the benefit of any private shareholder or individual.

''(4) In the case of a contribution or gift by an individual, a domestic fraternal society, order, or association, operating under the lodge system, but only if such contribution or gift is to be used exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals.

''(5) A cemetery company owned and operated exclusively for the benefit of its members, or any corporation chartered solely for burial purposes as a cemetery corporation and not permitted by its charter to engage in any business not necessarily incident to that purpose, if such company or corporation is not operated for profit and no part of the net earnings of such company or corporation inures to the benefit of any private shareholder or individual.

For purposes of this section, the term 'charitable contribution' also means an amount treated under subsection (d) as paid for the use of an organization described in paragraph (2), (3), or (4).

''(c) DISALLOWANCE OF DEDUCTION IN CERTAIN CASES AND SPECIAL RULES.—

''(1) SUBSTANTIATION REQUIREMENT FOR CERTAIN CONTRIBUTIONS.—

''(A) GENERAL RULE.—No deduction shall be allowed under subsection (a) for any contribution of $250 or more unless the taxpayer substantiates the contribution by a contemporaneous written acknowledgment of the contribution by the donee organization that meets the requirements of subparagraph (B).

''(B) CONTENT OF ACKNOWLEDGMENT.—An acknowledgment meets the requirements of this subparagraph if it includes the following information:

''(i) The amount of cash contributed.

''(ii) Whether the donee organization provided any goods or services in consideration, in whole or in part, for any contribution described in clause (i).

''(iii) A description and good faith estimate of the value of any goods or services referred to in clause (ii) or, if such goods or services consist solely of intangible religious benefits, a statement to that effect.

For purposes of this subparagraph, the term 'intangible religious benefit' means any intangible religious benefit which is provided by an organization organized exclusively for religious purposes and which generally is not sold in a commercial transaction outside the donative context.

''(C) CONTEMPORANEOUS.—For purposes of subparagraph (A), an acknowledgment shall be considered to be contemporaneous if the taxpayer obtains the acknowledgment on or before the earlier of—

''(i) the date on which the taxpayer files a return for the taxable year in which the contribution was made, or

''(ii) the due date (including extensions) for filing such return.

''(D) SUBSTANTIATION NOT REQUIRED FOR CONTRIBUTIONS REPORTED BY THE DONEE ORGANIZATION.—Subparagraph (A) shall not apply to a contribution if the donee organization files a return, on such form and in accordance with such regulations as the Secretary may prescribe, which includes the information described in subparagraph (B) with respect to the contribution.

''(E) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this paragraph, including regulations that may provide that some or all of the requirements of this paragraph do not apply in appropriate cases.

''(2) DENIAL OF DEDUCTION WHERE CONTRIBUTION FOR LOBBYING ACTIVITIES.—No deduction shall be allowed under this section for a contribution to an organization which conducts activities to which section 11(d)(2)(C)(i) applies on matters of direct financial interest to the donor's trade or business, if a principal purpose of the contribution was to

avoid Federal income tax by securing a deduction for such activities under this section which would be disallowed by reason of section 11(d)(2)(C) if the donor had conducted such activities directly. No deduction shall be allowed under section 11(d) for any amount for which a deduction is disallowed under the preceding sentence.

''(d) AMOUNTS PAID TO MAINTAIN CERTAIN STUDENTS AS MEMBERS OF TAXPAYER'S HOUSEHOLD.—

''(1) IN GENERAL.—Subject to the limitations provided by paragraph (2), amounts paid by the taxpayer to maintain an individual (other than a dependent, as defined in section 5(d), or a relative of the taxpayer) as a member of such taxpayer's household during the period that such individual is—

''(A) a member of the taxpayer's household under a written agreement between the taxpayer and an organization described in paragraph (2), (3), or (4) of subsection (b) to implement a program of the organization to provide educational opportunities for pupils or students in private homes, and

''(B) a full-time pupil or student in the twelfth or any lower grade at an educational organization located in the United States which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on,

shall be treated as amounts paid for the use of the organization.

''(2) LIMITATIONS.—

''(A) AMOUNT.—Paragraph (1) shall apply to amounts paid within the taxable year only to the extent that such amounts do not exceed $50 multiplied by the number of full calendar months during the taxable year which fall within the period described in paragraph (1). For purposes of the preceding sentence, if 15 or more days of a calendar month fall within such period such month shall be considered as a full calendar month.

''(B) COMPENSATION OR REIMBURSEMENT.—Paragraph (1) shall not apply to any amount paid by the taxpayer within the taxable year if the taxpayer receives any money or other property as compensation or reimbursement for maintaining the individual in the taxpayer's household during the period described in paragraph (1).

''(3) RELATIVE DEFINED.—For purposes of paragraph (1), the term 'relative of the taxpayer' means an individual who, with respect to the taxpayer, bears any of the relationships described in subparagraphs (A) through (H) of section 5(d)(1).

''(4) NO OTHER AMOUNT ALLOWED AS DEDUCTION.—No deduction shall be allowed under subsection (a) for any amount paid by a taxpayer to maintain an individual as a member of the taxpayer's household under a program described in paragraph (1)(A) except as provided in this subsection.

''(e) DENIAL OF DEDUCTION FOR CERTAIN TRAVEL EXPENSES.—No deduction shall be allowed under this section for traveling expenses (including amounts expended for meals and lodging) while away from home, whether paid directly or by reimbursement, unless there is no significant element of personal pleasure, recreation, or vacation in such travel.

''(f) DISALLOWANCE OF DEDUCTIONS IN CERTAIN CASES.—For disallowance of deductions for contributions to or for the use of Communist controlled organizations, see section 11(a) of the Internal Security Act of 1950 (50 U.S.C. 790).

''(g) TREATMENT OF CERTAIN AMOUNTS PAID TO OR FOR THE BENEFIT OF INSTITUTIONS OF HIGHER EDUCATION.—

''(1) IN GENERAL.—For purposes of this section, 80 percent of any amount described in paragraph (2) shall be treated as a charitable contribution.

''(2) AMOUNT DESCRIBED.—For purposes of paragraph (1), an amount is described in this paragraph if—

''(A) the amount is paid by the taxpayer to or for the benefit of an educational organization—

''(i) which is described in subsection (d)(1)(B), and

''(ii) which is an institution of higher education (as defined in section 3304(f)), and

''(B) such amount would be allowable as a deduction under this section but for the fact that the taxpayer receives (directly or indirectly) as a result of paying such amount the right to purchase tickets for seating at an athletic event in an athletic stadium of such institution.

If any portion of a payment is for the purchase of such tickets, such portion and the remaining portion (if any) of such payment shall be treated as separate amounts for purposes of this subsection.

''(h) OTHER CROSS REFERENCES.—

''(1) For treatment of certain organizations providing child care, see section 501(k).

''(2) For charitable contributions of partners, see section 702.

''(3) For treatment of gifts for benefit of or use in connection with the Naval Academy as gifts to or for the use of the United States, see section 6973 of title 10, United States Code.

''(4) For treatment of gifts accepted by the Secretary of State, the Director of the International Communication Agency, or the Director of the United States International Development Cooperation Agency, as gifts to or for the use of the United States, see section 25 of the State Department Basic Authorities Act of 1956.

''(5) For treatment of gifts of money accepted by the Attorney General for credit to the 'Commissary Funds, Federal Prisons' as gifts to or for the use of the United States, see section 4043 of title 18, United States Code.

''(6) For charitable contributions to or for the use of Indian tribal governments (or subdivisions of such governments), see section 7871.

''SEC. 4. DEDUCTION FOR HOME ACQUISITION INDEBTEDNESS.

''(a) GENERAL RULE.—For purposes of this part, there shall be allowed as a deduction all qualified residence interest paid or accrued within the taxable year.

''(b) QUALIFIED RESIDENCE INTEREST DEFINED.—The term 'qualified residence interest' means any interest which is paid or accrued during the taxable year on acquisition indebtedness with respect to any qualified residence of the taxpayer. For purposes of the preceding sentence, the determination of whether any property is a qualified residence of the taxpayer shall be made as of the time the interest is accrued.

''(c) ACQUISITION INDEBTEDNESS.—

''(1) IN GENERAL.—The term 'acquisition indebtedness' means any indebtedness which—

''(A) is incurred in acquiring, constructing, or substantially improving any qualified residence of the taxpayer, and

''(B) is secured by such residence.

Such term also includes any indebtedness secured by such residence resulting from the refinancing of indebtedness meeting the requirements of the preceding sentence (or this sentence); but only to the extent the amount of the indebtedness resulting from such refinancing does not exceed the amount of the refinanced indebtedness.

''(2) $100,000 LIMITATION.—The aggregate amount treated as acquisition indebtedness for any period shall not exceed $100,000 ($50,000 in the case of a married individual filing a separate return).

''(d) TREATMENT OF INDEBTEDNESS INCURRED ON OR BEFORE OCTOBER 13, 1987.—

''(1) IN GENERAL.—In the case of any pre-October 13, 1987, indebtedness—

''(A) such indebtedness shall be treated as acquisition indebtedness, and

''(B) the limitation of subsection (c)(2) shall not apply.

''(2) REDUCTION IN $100,000 LIMITATION.—The limitation of subsection (c)(2) shall be reduced (but not below zero) by the aggregate amount of outstanding pre-October 13, 1987, indebtedness.

''(3) PRE-OCTOBER 13, 1987, INDEBTEDNESS.—The term 'pre-October 13, 1987, indebtedness' means—

''(A) any indebtedness which was incurred on or before October 13, 1987, and which was secured by a qualified residence on October 13, 1987, and at all times thereafter before the interest is paid or accrued, or

''(B) any indebtedness which is secured by the qualified residence and was incurred after October 13, 1987, to refinance indebtedness described in subparagraph (A) (or refinanced indebtedness meeting the requirements of this subparagraph) to the extent (immediately after the refinancing) the principal amount of the indebtedness resulting from the refinancing does not exceed the principal amount of the refinanced indebtedness (immediately before the refinancing).

''(4) LIMITATION ON PERIOD OF REFINANCING.—Subparagraph (B) of paragraph (3) shall not apply to any indebtedness after—

''(A) the expiration of the term of the indebtedness described in paragraph (3)(A), or

''(B) if the principal of the indebtedness described in paragraph (3)(A) is not amortized over its term, the expiration of the term of the first refinancing of such indebtedness (or if earlier, the date which is 30 years after the date of such first refinancing).

''(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) QUALIFIED RESIDENCE.—For purposes of this subsection—

''(A) IN GENERAL.—Except as provided in subparagraph (C), the term 'qualified residence' means the principal residence of the taxpayer.

''(B) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—If a married couple does not file a joint return for the taxable year—

''(i) such couple shall be treated as 1 taxpayer for purposes of subparagraph (A), and

''(ii) each individual shall be entitled to take into account ½ of the principal residence unless both individuals consent in writing to 1 individual taking into account the principal residence.

''(C) PRE-OCTOBER 13, 1987, INDEBTEDNESS.—In the case of any pre-October 13, 1987, indebtedness, the term 'qualified residence' has the meaning given that term in section 163(h)(4), as in effect on the day before the date of enactment of this subparagraph.

''(2) SPECIAL RULE FOR COOPERATIVE HOUSING CORPORATIONS.—Any indebtedness secured by stock held by the taxpayer as a tenant-stockholder in a cooperative housing corporation shall be treated as secured by the house or apartment which the taxpayer is entitled to occupy as such a tenant-stockholder. If stock described in the preceding sentence may not be used to secure indebtedness, indebtedness shall be treated as so secured if the taxpayer establishes to the satisfaction of the Secretary that such indebtedness was incurred to acquire such stock.

''(3) UNENFORCEABLE SECURITY INTERESTS.—Indebtedness shall not fail to be treated as secured by any property solely because, under any applicable State or local homestead or other debtor protection law in effect on August 16, 1986, the security interest is ineffective or the enforceability of the security interest is restricted.

''(4) SPECIAL RULES FOR ESTATES AND TRUSTS.—For purposes of determining whether any interest paid or accrued by an estate or trust is qualified residence interest, any residence held by such estate or trust shall be treated as a qualified residence of such estate or trust if such estate or trust establishes that such residence is a qualified residence of a beneficiary who has a present interest in such estate or trust or an interest in the residuary of such estate or trust.

''SEC. 5. DEFINITIONS AND SPECIAL RULES.

''(a) DEFINITION OF SURVIVING SPOUSE.—

''(1) IN GENERAL.—For purposes of this part, the term 'surviving spouse' means a taxpayer—

''(A) whose spouse died during either of the taxpayer's 2 taxable years immediately preceding the taxable year, and

''(B) who maintains as the taxpayer's home a household which constitutes for the taxable year the principal place of abode (as a member of such household) of a dependent—

''(i) who (within the meaning of subsection (d)) is a son, stepson, daughter, or stepdaughter of the taxpayer, and

''(ii) with respect to whom the taxpayer is entitled to a deduction for the taxable year under section 2.

For purposes of this paragraph, an individual shall be considered as maintaining a household only if over one-half of the cost of maintaining the household during the taxable year is furnished by such individual.

''(2) LIMITATIONS.—Notwithstanding paragraph (1), for purposes of this part a taxpayer shall not be considered to be a surviving spouse—

''(A) if the taxpayer has remarried at any time before the close of the taxable year, or

''(B) unless, for the taxpayer's taxable year during which the taxpayer's spouse died, a joint return could have been made under the provisions of section 6013 (without regard to subsection (a)(3) thereof).

''(3) SPECIAL RULE WHERE DECEASED SPOUSE WAS IN MISSING STATUS.—If an individual was in a missing status (within the meaning of section 6013(f)(3)) as a result of service in a combat zone and if such individual remains in such status until the date referred to in subparagraph (A) or (B), then, for purposes of paragraph (1)(A), the date on which such individual dies shall be treated as the earlier of the date determined under subparagraph (A) or the date determined under subparagraph (B):

''(A) The date on which the determination is made under section 556 of title 37 of the United States Code or under section 5566 of title 5 of such Code (whichever is applicable) that such individual died while in such missing status.

''(B) Except in the case of the combat zone designated for purposes of the Vietnam conflict, the date which is 2 years after the date designated as the date of termination of combatant activities in that zone.

''(b) DEFINITION OF HEAD OF HOUSEHOLD.—

''(1) IN GENERAL.—For purposes of this part, an individual shall be considered a head of a household if, and only if, such individual is not married at the close of such individual's taxable year, is not a surviving spouse (as defined in subsection (a)), and either—

''(A) maintains as such individual's home a household which constitutes for more than one-half of such taxable year the principal place of abode, as a member of such household, of—

''(i) a son, stepson, daughter, or stepdaughter of the taxpayer, or a descendant of a son or daughter of the taxpayer, but if such son, stepson, daughter, stepdaughter, or descendant is married at the close of the taxpayer's taxable year, only if the taxpayer is entitled to a deduction for the taxable year for such person under section 2 (or would be so entitled but for subparagraph (B) or (D) of subsection (d)(5)), or

''(ii) any other person who is a dependent of the taxpayer, if the taxpayer is entitled to a deduction for the taxable year for such person under section 2, or

''(B) maintains a household which constitutes for such taxable year the principal place of abode of the father or mother of the taxpayer, if the taxpayer is entitled to a deduction for the taxable year for such father or mother under section 2.

For purposes of this paragraph, an individual shall be considered as maintaining a household only if over one-half of the cost of maintaining the household during the taxable year is furnished by such individual.

''(2) DETERMINATION OF STATUS.—For purposes of this subsection—

''(A) a legally adopted child of a person shall be considered a child of such person by blood,

''(B) an individual who is legally separated from such individual's spouse under a decree of divorce or of separate maintenance shall not be considered as married,

''(C) a taxpayer shall be considered as not married at the close of such taxpayer's taxable year if at any time during the taxable year such taxpayer's spouse is a nonresident alien, and

''(D) a taxpayer shall be considered as married at the close of such taxpayer's taxable year if such taxpayer's spouse (other than a spouse described in subparagraph (C)) died during the taxable year.

''(3) LIMITATIONS.—Notwithstanding paragraph (1), for purposes of this part, a taxpayer shall not be considered to be a head of a household—

''(A) if at any time during the taxable year the taxpayer is a nonresident alien, or

''(B) by reason of an individual who would not be a dependent for the taxable year but for—

''(i) subparagraph (I) of subsection (d)(1), or

''(ii) paragraph (3) of subsection (d).

''(c) CERTAIN MARRIED INDIVIDUALS LIVING APART.—For purposes of this part, an individual shall be treated as not married at the close of the taxable year if such individual is so treated under the provisions of section 7703(b).

''(d) DEPENDENT DEFINED.—

''(1) GENERAL DEFINITION.—For purposes of this part, the term 'dependent' means any of the following individuals over one-half of whose support, for the calendar year in which the taxable year of the taxpayer begins, was received from the taxpayer (or is treated under paragraph (3) or (5) as received from the taxpayer):

''(A) A son or daughter of the taxpayer, or a descendant of either.

''(B) A stepson or stepdaughter of the taxpayer.

''(C) A brother, sister, stepbrother, or stepsister of the taxpayer.

''(D) The father or mother of the taxpayer, or an ancestor of either.

''(E) A stepfather or stepmother of the taxpayer.

''(F) A son or daughter of a brother or sister of the taxpayer.

''(G) A brother or sister of the father or mother of the taxpayer.

''(H) A son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law of the taxpayer.

''(I) An individual (other than an individual who at any time during the taxable year was the spouse, determined without regard to section 7703, of the taxpayer) who, for the taxable year of the taxpayer, has as such individual's principal place of abode the home of the taxpayer and is a member of the taxpayer's household.

''(2) RULES RELATING TO GENERAL DEFINITION.—For purposes of this section—

''(A) BROTHER; SISTER.—The terms 'brother' and 'sister' include a brother or sister by the halfblood.

''(B) CHILD.—In determining whether any of the relationships specified in paragraph (1) or subparagraph (A) of this paragraph exists, a legally adopted child of an individual (and a child who is a member of an individual's household, if placed with such individual by an authorized placement agency for legal adoption by such individual), or a foster child of an individual (if such child satisfies the requirements of paragraph (1)(I) with respect to such individual), shall be treated as a child of such individual by blood.

''(C) CITIZENSHIP.—The term 'dependent' does not include any individual who is not a citizen or national of the United States unless such individual is a resident of the United States or of a country contiguous to the United States. The preceding sentence shall not exclude from the definition of 'dependent' any child of the taxpayer legally adopted by such taxpayer, if, for the taxable year of the taxpayer, the child has as such child's principal place of abode the home of the taxpayer and is a member of the taxpayer's household, and if the taxpayer is a citizen or national of the United States.

''(D) ALIMONY, ETC.—A payment to a wife which is alimony or separate maintenance shall not be treated as a payment by the wife's husband for the support of any dependent.

''(E) UNLAWFUL ARRANGEMENTS.—An individual is not a member of the taxpayer's household if at any time during the taxable year of the taxpayer the relationship between such individual and the taxpayer is in violation of local law.

''(3) MULTIPLE SUPPORT AGREEMENTS.—For purposes of paragraph (1), over one-half of the support of an individual for a calendar year shall be treated as received from the taxpayer if—

''(A) no one person contributed over one-half of such support,

''(B) over one-half of such support was received from persons each of whom, but for the fact that such person did not contribute over one-half of such support, would have been entitled to claim such individual as a dependent for a taxable year beginning in such calendar year,

''(C) the taxpayer contributed over 10 percent of such support, and

''(D) each person described in subparagraph (B) (other than the taxpayer) who contributed over 10 percent of such support files a written declaration (in such manner and form as the Secretary may by regulations prescribe) that such person will not claim such individual as a dependent for any taxable year beginning in such calendar year.

''(4) SPECIAL SUPPORT TEST IN CASE OF STUDENTS.—For purposes of paragraph (1), in the case of any individual who is—

''(A) a son, stepson, daughter, or stepdaughter of the taxpayer (within the meaning of this subsection), and

''(B) a student,

amounts received as scholarships for study at an educational organization described in section 3(d)(1)(B) shall not be taken into account in determining whether such individual received more than one-half of such individual's support from the taxpayer.

''(5) SUPPORT TEST IN CASE OF CHILD OF DIVORCED PARENTS, ETC.—

''(A) CUSTODIAL PARENT GETS EXEMPTION.—Except as otherwise provided in this paragraph, if—

''(i) a child receives over one-half of such child's support during the calendar year from such child's parents—

''(I) who are divorced or legally separated under a decree of divorce or separate maintenance,

''(II) who are separated under a written separation agreement, or

''(III) who live apart at all times during the last 6 months of the calendar year, and

''(ii) such child is in the custody of 1 or both of such child's parents for more than one-half of the calendar year,

such child shall be treated, for purposes of paragraph (1), as receiving over one-half of such child's support during the calendar year from the parent having custody for a greater portion of the calendar year (hereafter in this paragraph referred to as the 'custodial parent').

''(B) EXCEPTION WHERE CUSTODIAL PARENT RELEASES CLAIM TO EXEMPTION FOR THE YEAR.—A child of parents described in subparagraph (A) shall be treated as having received over one-half of such child's support during a calendar year from the noncustodial parent if—

''(i) the custodial parent signs a written declaration (in such manner and form as the Secretary may by regulations prescribe) that such custodial parent will not claim such child as a dependent for any taxable year beginning in such calendar year, and

''(ii) the noncustodial parent attaches such written declaration to the noncustodial parent's return for the taxable year beginning during such calendar year.

For purposes of this paragraph, the term 'noncustodial parent' means the parent who is not the custodial parent.

''(C) EXCEPTION FOR MULTIPLE-SUPPORT AGREEMENT.—This paragraph shall not apply in any case where over one-half of the support of the child is treated as having been received from a taxpayer under the provisions of paragraph (3).

''(D) EXCEPTION FOR CERTAIN PRE-1985 INSTRUMENTS.—

''(i) IN GENERAL.—A child of parents described in subparagraph (A) shall be treated as having received over one-half such child's support during a calendar year from the noncustodial parent if—

''(I) a qualified pre-1985 instrument between the parents applicable to the taxable year beginning in such calendar year provides that the noncustodial parent shall be entitled to any deduction allowable under section 2 for such child, and

''(II) the noncustodial parent provides at least $600 for the support of such child during such calendar year.

For purposes of this clause, amounts expended for the support of a child or children shall be treated as received from the noncustodial parent to the extent that such parent provided amounts for such support.

''(ii) QUALIFIED PRE-1985 INSTRUMENT.—For purposes of this subparagraph, the term 'qualified pre-1985 instrument' means any decree of divorce or separate maintenance or written agreement—

''(I) which is executed before January 1, 1985,

''(II) which on such date contains the provision described in clause (i)(I), and

''(III) which is not modified on or after such date in a modification which expressly provides that this subparagraph shall not apply to such decree or agreement.

''(E) SPECIAL RULE FOR SUPPORT RECEIVED FROM NEW SPOUSE OF PARENT.—For purposes of this paragraph, in the case of the remarriage of a parent, support of a child received from the parent's spouse shall be treated as received from the parent.

''PART II—TAX ON BUSINESS ACTIVITIES

''Sec. 11. Tax imposed on business activities.

''SEC. 11. TAX IMPOSED ON BUSINESS ACTIVITIES.

''(a) TAX IMPOSED.—There is hereby imposed on every person engaged in a business activity located in the United States a tax equal to 20 percent of the business taxable income of such person.

''(b) LIABILITY FOR TAX.—The tax imposed by this section shall be paid by the person engaged in the business activity, whether such person is an individual, partnership, corporation, or otherwise.

''(c) BUSINESS TAXABLE INCOME.—

''(1) IN GENERAL.—For purposes of this section, the term 'business taxable income' means gross active income reduced by the deductions specified in subsection (d).

''(2) GROSS ACTIVE INCOME.—For purposes of paragraph (1), the term 'gross active income' means gross income other than investment income.

''(d) DEDUCTIONS.—

''(1) IN GENERAL.—The deductions specified in this subsection are—

''(A) the cost of business inputs for the business activity,

''(B) the compensation (including contributions to qualified retirement plans but not including other fringe benefits) paid for employees performing services in such activity, and

''(C) the cost of personal and real property used in such activity.

''(2) BUSINESS INPUTS.—

''(A) IN GENERAL.—For purposes of paragraph (1)(A), the term 'cost of business inputs' means—

''(i) the actual cost of goods, services, and materials, whether or not resold during the taxable year, and

''(ii) the actual cost, if reasonable, of travel and entertainment expenses for business purposes.

''(B) PURCHASES OF GOODS AND SERVICES EXCLUDED.—Such term shall not include purchases of goods and services provided to employees or owners.

''(C) CERTAIN LOBBYING AND POLITICAL EXPENDITURES EXCLUDED.—

''(i) IN GENERAL.—Such term shall not include any amount paid or incurred in connection with—

''(I) influencing legislation,

''(II) participation in, or intervention in, any political campaign on behalf of (or in opposition to) any candidate for public office,

''(III) any attempt to influence the general public, or segments thereof, with respect to elections, legislative matters, or referendums, or

''(IV) any direct communication with a covered executive branch official in an attempt to influence the official actions or positions of such official.

''(ii) EXCEPTION FOR LOCAL LEGISLATION.—In the case of any legislation of any local council or similar governing body—

''(I) clause (i)(I) shall not apply, and

''(II) such term shall include all ordinary and necessary expenses (including, but not limited to, traveling expenses described in subparagraph (A)(iii) and the cost of preparing testimony) paid or incurred during the taxable year in carrying on any trade or business—

''(aa) in direct connection with appearances before, submission of statements to, or sending communications to the committees, or individual members, of such council or body with respect to legislation or proposed legislation of direct interest to the taxpayer, or

''(bb) in direct connection with communication of information between the taxpayer and an organization of which the taxpayer is a member with respect to any such legislation or proposed legislation which is of direct interest to the taxpayer and to such organization, and that portion of the dues so paid or incurred with respect to any organization of which the taxpayer is a member which is attributable to the expenses of the activities carried on by such organization.

''(iii) APPLICATION TO DUES OF TAX-EXEMPT ORGANIZATIONS.—Such term shall include the portion of dues or other similar amounts paid by the taxpayer to an organization which is exempt from tax under this subtitle which the organization notifies the taxpayer under section 6033(e)(1)(A)(ii) is allocable to expenditures to which clause (i) applies.

''(iv) INFLUENCING LEGISLATION.—For purposes of this subparagraph—

''(I) IN GENERAL.—The term 'influencing legislation' means any attempt to influence any legislation through communication with any member or employee of a legislative body, or with any government official or employee who may participate in the formulation of legislation.

''(II) LEGISLATION.—The term 'legislation' has the meaning given that term in section 4911(e)(2).

''(v) OTHER SPECIAL RULES.—

''(I) EXCEPTION FOR CERTAIN TAXPAYERS.—In the case of any taxpayer engaged in the trade or business of conducting activities described in clause (i), clause (i) shall not apply to expenditures of the taxpayer in conducting such activities directly on behalf of another person (but shall apply to payments by such other person to the taxpayer for conducting such activities).

''(II) DE MINIMIS EXCEPTION.—

''(aa) IN GENERAL.—Clause (i) shall not apply to any in-house expenditures for any taxable year if such expenditures do not exceed $2,000. In determining whether a taxpayer exceeds the $2,000 limit, there shall not be taken into account overhead costs otherwise allocable to activities described in subclauses (I) and (IV) of clause (i).

''(bb) IN-HOUSE EXPENDITURES.—For purposes of provision (aa), the term 'in-house expenditures' means expenditures described in subclauses (I) and (IV) of clause (i) other than payments by the taxpayer to a person engaged in the trade or business of conducting activities described in clause (i) for the conduct of such activities on behalf of the taxpayer, or dues or other similar amounts paid or incurred by the taxpayer which are allocable to activities described in clause (i).

''(III) EXPENSES INCURRED IN CONNECTION WITH LOBBYING AND POLITICAL ACTIVITIES.—Any amount paid or incurred for research for, or preparation, planning, or coordination of, any activity described in clause (i) shall be treated as paid or incurred in connection with such activity.

''(vi) COVERED EXECUTIVE BRANCH OFFICIAL.—For purposes of this subparagraph, the term 'covered executive branch official' means—

''(I) the President,

''(II) the Vice President,

''(III) any officer or employee of the White House Office of the Executive Office of the President, and the 2 most senior level officers of each of the other agencies in such Executive Office, and

''(IV) any individual serving in a position in level I of the Executive Schedule under section 5312 of title 5, United States Code, any other individual designated by the President as having Cabinet level status, and any immediate deputy of such an individual.

''(vii) SPECIAL RULE FOR INDIAN TRIBAL GOVERNMENTS.—For purposes of this subparagraph, an Indian tribal government shall be treated in the same manner as a local council or similar governing body.

''(viii) CROSS REFERENCE.—

''For reporting requirements and alternative taxes related to this subsection, see section 6033(e).

''(e) CARRYOVER OF EXCESS DEDUCTIONS.—

''(1) IN GENERAL.—If the aggregate deductions for any taxable year exceed the gross active income for such taxable year, the amount of the deductions specified in subsection (d) for the succeeding taxable year (determined without regard to this subsection) shall be increased by the sum of—

''(A) such excess, plus

''(B) the product of such excess and the 3-month Treasury rate for the last month of such taxable year.

''(2) 3-MONTH TREASURY RATE.—For purposes of paragraph (1), the 3-month Treasury rate is the rate determined by the Secretary based on the average market yield (during any 1-month period selected by the Secretary and ending in the calendar month in which the determination is made) on outstanding marketable obligations of the United States with remaining periods to maturity of 3 months or less.''

(b) CONFORMING REPEALS AND REDESIGNATIONS.—

(1) REPEALS.—The following subchapters of chapter 1 of subtitle A and the items relating to such subchapters in the table of subchapters for such chapter 1 are repealed:

(A) Subchapter B (relating to computation of taxable income).

(B) Subchapter C (relating to corporate distributions and adjustments).

(C) Subchapter D (relating to deferred compensation, etc.).

(D) Subchapter G (relating to corporations used to avoid income tax on shareholders).

(E) Subchapter H (relating to banking institutions).

(F) Subchapter I (relating to natural resources).

(G) Subchapter J (relating to estates, trusts, beneficiaries, and decedents).

(H) Subchapter L (relating to insurance companies).

(I) Subchapter M (relating to regulated investment companies and real estate investment trusts).

(J) Subchapter N (relating to tax based on income from sources within or without the United States).

(K) Subchapter O (relating to gain or loss on disposition of property).

(L) Subchapter P (relating to capital gains and losses).

(M) Subchapter Q (relating to readjustment of tax between years and special limitations).

(N) Subchapter S (relating to tax treatment of S corporations and their shareholders).

(O) Subchapter T (relating to cooperatives and their patrons).

(P) Subchapter U (relating to designation and treatment of empowerment zones, enterprise communities, and rural development investment areas).

(Q) Subchapter V (relating to title 11 cases).

(R) Subchapter W (relating to District of Columbia Enterprise Zone).

(2) REDESIGNATIONS.—The following subchapters of chapter 1 of subtitle A and the items relating to such subchapters in the table of subchapters for such chapter 1 are redesignated:

(A) Subchapter E (relating to accounting periods and methods of accounting) as subchapter B.

(B) Subchapter F (relating to exempt organizations) as subchapter C.

(C) Subchapter K (relating to partners and partnerships) as subchapter D.

SEC. 3. REPEAL OF ESTATE AND GIFT TAXES.

Subtitle B (relating to estate, gift, and generation-skipping taxes) and the item relating to such subtitle in the table of subtitles is repealed.

SEC. 4. ADDITIONAL REPEALS.

Subtitles H (relating to financing of presidential election campaigns) and J (relating to coal industry health benefits) and the items relating to such subtitles in the table of subtitles are repealed.

SEC. 5. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this Act apply to taxable years beginning after December 31, 2003.

(b) REPEAL OF ESTATE AND GIFT TAXES.—The repeal made by section 3 applies to estates of decedents dying, and transfers made, after December 31, 2003.

(c) TECHNICAL AND CONFORMING CHANGES.—The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable but in any event not later than 90 days after the date of enactment of this Act, submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a draft of any technical and conforming changes in the Internal Revenue Code of 1986 which are necessary to reflect throughout such Code the changes in the substantive provisions of law made by this Act.

By Ms. COLLINS (for herself, Mr. DORGAN, Mr. SANTORUM, and Mr. CONRAD):

S. 908. A bill to establish the United States Consensus Council to provide for a consensus building process in addressing national public policy issues, and for other purposes; to the Committee on Governmental Affairs.

Ms. COLLINS. Mr. President, I am introducing legislation today that would create a United States Consensus Council. Designed to facilitate a consensus building process on important national issues, the U.S. Consensus Council is modeled upon similar entities that have operated successfully in several States. The council would be a nonprofit, private entity that would serve both the legislative and executive branches of government. Its role would be to build agreements among stakeholders on public policy issues where there are diverse and conflicting views and bring these agreements back to Congress or other decision-makers for action.

A good example of such a consensus council is the Montana Consensus Council. Established in 1994, this council has helped to facilities agreements on a range of contentious public issues. The Council, for example, facilitated development of a plan for the cleanup of hazardous waste sites that was overwhelmingly approved by the State legislature. It also helped mediate a dispute between recreationists and ranchers over water rights and, with the input of key stakeholders, an agreement was successfully reached.

The North Dakota Consensus Council, created in 1990, has helped build agreements on numerous local and State issues, including facilitating a five year effort to develop a strategic plan for the future of North Dakota and an economic development strategy to implement that plan.

The U.S. Consensus Council Act was introduced in the last Congress by Senator DORGAN and cosponsored by a bipartisan group of Senators. The Committee on Governmental Affairs favorably reported the bill last fall, but the full Senate did not have an opportunity to act on it before adjournment. I am pleased that Senator DORGAN, along with Senators SANTORUM and CONRAD, have joined me in reintroducing the legislation today.

The legislation would establish the U.S. Consensus Council as an independent nonprofit corporation under the District of Columbia Nonprofit Corporation Act. The Council would not be an agency or instrumentality of the United States. The Council's role would be to design and conduct processes that bring together key stakeholders and build agreements on complex public policy issues. The resulting recommendations would be advisory, subject to the normal legislative or regulatory processes.

The Council's powers would be vested in a 12-member part-time Board of Directors. Each of the leaders of the majority and minority in the House of Representatives and the Senate would appoint two board members, and the President would appoint four members. Members of the Board cannot be Federal officers or employees.

A President, selected by the Board, would be the chief executive officer of the Council.

Mr. DORGAN. Madam President, today I am pleased to join my colleague, Senator COLLINS, in introducing legislation that would create the United States Consensus Council. This council would be a nonprofit, quasi-governmental entity. Its role would be to build agreements among stakeholders on legislative issues where there are diverse and conflicting views and bring these agreements back to Congress or other decisionmakers for action.

We all talk about the benefit of working across party lines to develop consensus on a variety of policy issues. This bill would help to institutionalize this goal and provide ongoing support to Congress by bringing stakeholders to the table to resolve a wide range of difficult national issues.

The North Dakota Consensus Council in my home State serves as a model for this national proposal. In North Dakota, the Consensus Council has helped to find common ground on the use of grasslands in the western part of the State, the structure of judgeships across the State, and flood mitigation efforts in the Red River Valley. By bringing together all of the interested parties, the North Dakota Consensus Council was able to find solutions to problems that had previously seemed insurmountable. Washington, DC, is ripe with opportunity for the same kind of consensus building and mediation. We can not only build on the experience of consensus building in North Dakota, but similar successes in Montana, Florida, Oregon, and many other States.

The United States Consensus Council would bring people together and then

help to develop recommendations. These recommendations would be advisory and would not circumvent any of the normal legislative requirements or processes. The board of directors would be appointed by the President and the bipartisan congressional leadership. The council would remain neutral on substantive policy matters.

The council would focus on issues that are contentious or deadlocked, or they could be emerging issues where mediation could help to prevent later polarization.

The council's role will be to design and conduct processes that lead to common ground on effective public policy for a particular issue. The council could be called upon to convene key stakeholders in face-to-face meetings over time to build agreements on complex issues.

I have long been a supporter of building consensus and finding ways to reach compromise. I believe that this legislation could help the Congress and the administration to find that middle ground. There are so many important issues that get deadlocked in Washington, and this approach will help to break that logjam. I look forward to working with my colleagues on both sides of the aisle to move this bill through the process.

By Ms. SNOWE:

S. 909. A bill to provide State and local governments with flexibility in using funds made available for homeland security activities; to the Committee on Environment and Public Works.

Ms. SNOWE. Madam President, I rise today to introduce legislation that will provide State and local governments the flexibility they need for preparedness activities associated with the planning, procurement and training for homeland security and counter terrorism activities.

Quite simply, this legislation would permit State and local governments to use up to twenty percent of any funds provided for the procurement of new equipment to train first responders in the use of that equipment and secondly, allow State level Emergency Management personnel to conduct activities such as FEMA related strategic planning on behalf of smaller communities that may not otherwise have the resources to adequately perform that planning.

I became acutely aware of this need when I visited the Maine Emergency Management Agency and learned that, although they had been provided the funds to purchase new chemical and biological protection equipment, they had not received any funds to train personnel to use that equipment.

As we are all aware, homeland security needs at the State level vary widely. From State to State, there are varying degrees of risk, varying percentages of full-time versus volunteer responders, and different areas of strengths and weaknesses in the responder community. Any successful Federal program that seeks to improve response capability must therefore have flexible rules for implementation.

For example, in fiscal years 2000 through 2002, FEMA funded states for terrorism preparedness activities. The State of Maine received $246,000 annually for these activities and the funds were administered through the Emergency Management Performance Grant. Those funds were based on a strategic plan submitted by each State that outlined its most urgent needs, and the steps to be taken to meet those needs. If planning was the need, the State could put an emphasis on planning. If training or exercise was the need, they could stress that.

While there was no set quota for how much money had to go to local communities, States were required to track performance measures that showed how local communities were benefitting because in rural States such as Maine, it is often more efficient and cost-effective for States to sponsor programs for the benefit of local officials, rather than providing funds to communities that may not have the organizational infrastructure to plan and execute programs.

States were given wide authority to reimburse communities for time and equipment costs, purchase training materials, and contract for services—whatever was necessary to accomplish the ultimate goal of improved preparedness for responders. These dollars could also support basic emergency management activities, such as incident command training, emergency planning or exercise design, which supported the communities' overall all-hazard preparedness as well as their capability to react to a terrorist incident.

By contrast, let's go back and look at FEMA's FY2002 Supplemental Budget and the Office of Domestic Preparedness' funding for emergency response equipment for it was during this cycle that the previous flexibility began to be restricted. First, while the FEMA FY2002 Supplemental Budget supported emergency operations planning, Citizen Corps, Community Emergency Response Teams, CERT, and emergency operations center assessment and improvement, 75 percent of the funding for planning and for Citizen Corps and CERT efforts was required to be passed through to local communities, even if the capacity to administer those funds was generally lacking and the communities would have been better served by programs brought to them by the state.

In addition, planning dollars could not be spent on exercises to test plans, or training to support those plans. Funds for Citizen Corps and CERT programs, which are voluntary efforts, could not be used for any other preparedness purpose, even if no communities came forward desiring to participate in those programs. It is likely that Maine will return a portion of these funds because the local need for them does not exist. Furthermore, emergency operations center assessment funds could only be spent on assessment, even if a current assessment of facilities was in place.

The Office of Domestic Preparedness' funding for the procurement of equipment has been equally restrictive. The lion's share is of course for equipment, and only equipment that provides protection, detection, decontamination and communications could be procured.

Beyond the fact that it took two rounds of funding to build a critical mass of resources such that equipment purchases could begin in earnest, much of this equipment is highly technical in nature, and requires extensive training to operate safely and properly. However, of the funds provided for that equipment, none could be used for training. While there were some exercise funds, they were specifically targeted to weapons of mass destruction. With the FY2003 allocation, some funding has been allocated for training, which is a positive step but, again, it comes with very strict limits and dollars allocated for exercise cannot be used for training, or vice versa.

In the emergency management world, planning comes first, then training, then exercise.

If you need a plan, you can't substitute an exercise and get the same result. If you need an exercise, you can't substitute training. Even within the training and exercise grants, there are restrictions that make it extremely difficult for full-time departments, for example, to free up employee time to take needed training or participate in exercises. And with the focus on homeland security, the need for flexibility to improve basic response capability has also been overlooked. In communities that do not have the resources to create special response forces for every hazard—and that includes all towns in Maine—it is imperative to be able to build a base of planning and training for all hazards, on which one can build the capability to respond to a terrorist incident.

Our strategy in Maine has been to build a regional response capability. In some areas we could build that capability around existing response capacity, and in others we have had to build capability from the ground up.

For example, the Portland and South Portland fire departments have formed a regional response team and are undertaking training required to stand up a fully qualified hazardous materials response team. This entails 80 hours of training for each individual. But, I'm told the City of Portland is in the process of cutting 20 fire positions and some police officers because of budget constraints at the local level, as they are facing additional security requirements around the city. This makes it very difficult to free up responders for the required training, especially as there are no budget dollars for overtime, and no Federal grant currently

available will reimburse training costs to include overtime.

In other parts of the State, private paper companies have stepped up and volunteered their already-trained hazardous materials teams to respond off site. During the anthrax scare in the fall of 2001, these teams responded to any and all ''suspicious package'' calls, at a cost of $2,000 per hour to field a team of 22 people.

These companies have responded out of patriotism and a sense of civic responsibility, and despite challenging economic times in the paper industry. These teams are now faced with maintaining the full ''level A'' capability and further facing more than 20 hours of additional training to be fully WMD compliant. No grant monies currently available allow reimbursement for their response or for their training time.

In Maine, we have by necessity been flexible in our approach to each region, looking at the different needs in planning, training, exercise and equipment procurement. However, it is becoming increasingly difficult to practice flexibility when the Federal programs that provide the resources to build capability are becoming more and more rigid.

The events of September 11, 2001 and the subsequent anthrax attacks have brought our Nation to heightened level of awareness. Nowhere is this more evident than in Maine's hospitals, upon which we rely to respond quickly and effectively in the event of any disaster affecting our residents' health.

While hospitals have always had disaster plans in place, recent events have dramatically changed the definition of ''disaster''. Since September 11, 2001, hospitals have stepped up their readiness efforts to be better prepared in responding not only to conventional disasters, but also to the more concrete threat of previously unimaginable terrorist attacks using chemical, biological or radiologic agents that could lead to large-scale emergencies with mass casualties.

Hospitals have to change their mindset on established norms and standard ways of operating to embrace a broader spectrum of roles and responsibilities. The relationship between traditional first responders and the non-traditional role of hospitals in community-wide first response overall is moving closer, emphasizing the need for collaboration and compatibility.

No one doubts that in the event of a weapons of mass destruction event, hospitals are likely to see large numbers of potentially contaminated patients seeking treatment. The reality is that hospital emergency department staff and hospital providers in general are truly the new ''first responders.'' Hospitals are critical elements of the community response system and if they are not prepared and protected, there will be serious gaps in the system that could cause it to break down completely.

One of the largest barriers to optimal emergency preparedness is staff education and training. To date, hospitals have had to absorb all these costs, as the limited funding assistance available to hospitals has not been permitted to be spent on education and training. The full costs of providing training is daunting, particularly in these lean economic times of declining reimbursement to hospitals.

The costs of the courses and/or instructors' fees pale in comparison to the staff time that must be paid to attend any given course. Staff time must essentially be paid twice—first to pay the staff person's on-duty time to attend the course or drill, and once again to pay another staff person's time to replace the worker being trained. The cost of staff time is significant, and even finding staff to replace the one attending training is especially costly due to the nursing shortage in hospitals. Consider the following facts: The vacancy rate for hospital staff nurses in Maine has been 8–9 percent. The average hourly rate for registered nurses in Maine is $21.67, and rising. Any staff training must be done on a large scale so that trained staff are available 24 hours a day, 7 days a week.

As just one example of training needed, Maine recognizes that hospitals need to be prepared to manage contaminated patients who come to their facility. The Maine Emergency Management Agency is working to provide hospitals with the necessary equipment, but the training necessary to competently use that equipment is extensive and currently underfunded.

According to Federal Occupational Safety and Health Administration regulations, staff must be trained to the hazardous material ''operations'' level in order to safely use the equipment. Meeting Federal Government standards for that level of training requires at least two full days of initial training, with refresher courses required annually. Conservatively speaking, if 35 Maine hospitals train 25 nurses to that level, the approximate cost of nursing staff time alone for the initial course would be $606,760. And remember, because six to eight staff members are required to man the decontamination line, the nursing costs are just the beginning.

The same staffing costs apply to sending staff to local and regional emergency drills and training sessions—which are absolutely critical components of Maine's disaster readiness. It is simply not possible for hospitals to absorb all of these costs, given the declining reimbursements. Hospital operating margins in Maine declined from an average of 2.3 percent in 2001 to 1.7 percent in 2002 and about one third of all Maine hospitals experienced zero or negative operating margins in 2002.

Yet, our hospitals continue their efforts to provide the best possible patient care while simultaneously increasing their level of emergency preparedness. Federal assistance with training funding would provide excellent support for hospitals, as they work to respond to any crisis and protect their staff so they can perform the critical functions of caring for the citizens of Maine in any crisis.

These are but a few examples of the burdens being experienced by State, local and private industry responders as they struggle to prepare themselves and the citizenry to prevent and respond to terrorist attacks and other crises. This legislation will provide some of the flexibility emergency management personnel require to be truly prepared. I urge my colleagues to support this much needed legislation.

By Mr. AKAKA (for himself, Mr. CARPER, and Mr. LAUTENBERG):

S. 910. A bill to ensure the continuation of non-homeland security functions of Federal agencies transferred to the Department of Homeland Security; to the Committee on Governmental Affairs.

Mr. AKAKA. Madam President, I rise today to introduce legislation to preserve important non-homeland security missions in the Department of Homeland Security. I am pleased to be joined by the Senator from Delaware, Senator CARPER, and the Senator from New Jersey, Senator LAUTENBERG, in this effort to guarantee the fulfillment of non-homeland security functions Americans rely on daily.

Many of these non-homeland security functions are especially important to the State of Hawaii. The Coast Guard provides essential search and rescue, fisheries enforcement, and protection of our coastline. The Animal and Plant Health Inspection Service protects the State's fragile ecosystem from invasive species. The Federal Emergency Management Agency assists municipalities in reducing the destructive effects of natural disasters, such as floods, hurricanes, and tidal waves.

To preserve these vital functions, the ''Non-Homeland Security Mission Performance Act of 2003'' would require the Department of Homeland Security to identify and report to Congress on the resources, personnel, and capabilities used to perform non-homeland security functions, as well as the management strategy needed to carry out these missions.

The measure would require the Department to include information on the performance of these functions in its annual performance report. Our legislation also calls for a General Accounting Office, GAO, evaluation of the performance of essential non-homeland security missions.

The establishment of the Department of Homeland Security created additional management challenges and has fueled growing concerns that the performance of core, non-homeland security functions will slip through the cracks. Just last week, the GAO testified before the House Committee on Transportation and Infrastructure that

the Coast Guard has experienced a substantial decline in the amount of time spent on core missions. Moreover, GAO found that the Coast Guard lacks the resources to reverse this trend. Coast Guard Commandant Thomas H. Collins is quoted as saying that his agency has more business than it has resources and is challenged like never before to do all that America wants it to do.

These same concerns extend to the entire Department of Homeland Security. The Department of Homeland Security's Bureau of Citizenship and Immigration services provides asylum for refugees and helps immigrants become American citizens. The Customs Service protects and monitors foreign trade so essential for a healthy American economy. And the Secret Service protects and monitors against identity theft, counterfeiting, and other financial crimes.

In fact, the General Accounting Office has added the transformation of and implementation of the Department to the GAO High Risk list, partially as the result of existing management challenges to fulfill non-homeland security missions.

The cost of creating a Department of Homeland Security should not come at the expense of these essential missions. Agencies should strike the proper balance between new homeland security responsibilities and their critical non-homeland security missions. Enhancing traditional missions also enhances domestic security which depends on sound management strategies that ensure adequate resources and personnel.

I urge my colleagues to support the ''Non-Homeland Security Mission Performance Act of 2003.'' Our bill takes important steps to ensure that Americans will not see a decline in non-homeland security services as a result of the creation of the Department of Homeland Security.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 910

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Non-Homeland Security Mission Performance Act of 2003''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress makes the following findings:

(1) Federal agencies included in the Department of Homeland Security perform important non-homeland security functions on which all United States citizens rely, such as the protection of fisheries and agriculture, communication and transportation infrastructures, and medical supplies.

(2) Federal agencies included in the Department shall ensure the continuation of non-homeland security functions as new homeland security responsibilities are adopted.

(3) A strategy to address non-homeland security functions is needed to meet the daily needs of Americans and to preserve the security of the Nation.

(4) Non-homeland security functions are complementary to homeland security functions and often share personnel, resources, and assets. It is appropriate for each Under Secretary of the Department of Homeland Security to ensure that non-homeland security functions are performed.

(5) Agencies in the Department of Homeland Security perform essential non-homeland security functions Americans rely on everyday, including the following:

(A) The United States Coast Guard has vital non-homeland security functions, including search and rescue, fisheries enforcement, law enforcement, marine safety, and aids to navigation.

(B) The Department of Homeland Security Bureau of Citizenship and Immigration Services provides important immigration and citizenship services and benefits including processing and approving requests for citizenship, adjudicating asylum for refugees, and immigration benefits, such as refugee and intercountry adoptions.

(C) The Federal Emergency Management Agency (FEMA) assists local communities to prepare for and respond to floods, hurricanes, earthquakes, fires, tornadoes, and other natural disasters. The Federal Emergency Management Agency supplements State and local responses to natural disasters and the mitigation of damage, and prevention of disasters, such as earthquakes.

(D) The Animal and Plant Health Inspection Service and the Animal Research Service develop strategies to prevent and control foreign or emerging animal and plant disease epidemics vital to farmers, the economy, and the protection of the environment.

(E) The Secret Service is charged with safeguarding payment and financial systems by protecting against counterfeiting, identity theft, credit card fraud, cell phone fraud, computer and telecommunications fraud, money laundering, and other financial crimes.

(F) The United States Customs Service protects our free trade essential for a healthy economy by working to lower the cost of trade compliance, providing guidance on the conduct of legal trade, and monitoring imports to ensure compliance with public health and safety laws. Customs protects intellectual property and combats money laundering, child pornography, and drug trafficking.

(b) PURPOSES.—The purposes of this Act are to—

(1) ensure the continuation of non-homeland security functions of Federal agencies; and

(2) ensure that Federal agencies develop sound management strategies and allocate sufficient funding to carry out non-homeland security functions.

SEC. 3. NON-HOMELAND SECURITY FUNCTIONS PERFORMANCE.

(a) IN GENERAL.—For each entity in the Department of Homeland Security that performs non-homeland security functions, the Under Secretary with responsibility for that entity, in conjunction with the head of that entity, shall submit a report on the performance of the entity and all the functions of that entity, with a particular emphasis on examining the continuing level of performance of non-homeland security functions to—

(1) the Secretary of Homeland Security;

(2) the Committee on Governmental Affairs of the Senate;

(3) the Committee on Appropriations of the Senate;

(4) the Committee on Government Reform of the House of Representatives;

(5) the Select Committee on Homeland Security of the House of Representatives; and

(6) the Committee on Appropriations of the House of Representatives.

(b) CONTENTS.—The report referred to under subsection (a) shall—

(1) to the greatest extent possible, provide an inventory of the non-homeland security functions of the entity and identify the capabilities of the entity with respect to those functions, including—

(A) the number of employees carrying out those functions;

(B) the budget for those functions; and

(C) the flexibilities, personnel or otherwise, used to carry out those functions;

(2) contain information relating to the roles, responsibilities, organizational structure, capabilities, personnel assets, and annual budgets, specifically with respect to the capabilities of the entity to accomplish non-homeland security functions without any diminishment;

(3) contain information relating to whether any changes are required to the roles, responsibilities, functions, organizational structure, modernization programs, projects, activities, recruitment and retention programs, and annual fiscal resources to enable the entity to accomplish non-homeland security functions without diminishment; and

(4) contain the strategy the Department will use for the performance of non-homeland security functions and homeland security functions.

(c) SUBMISSION OF REPORTS.—During the 5-year period following the date of the transfer of an entity that performs non-homeland security functions to the Department of Homeland Security or the date of the establishment of an entity that performs non-homeland security functions within the Department of Homeland Security, the Under Secretary with responsibility for that entity shall submit an annual report described under subsection (a).

(d) ANNUAL EVALUATIONS.—

(1) IN GENERAL.—The Comptroller General of the United States shall monitor and evaluate the implementation of this section.

(2) REPORTS.—Not later than 60 days after the date of enactment of this Act and every year during the succeeding 5-year period, the Comptroller General of the United States shall submit a report to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives containing—

(A) an evaluation of the implementation progress reports submitted under this section;

(B) the findings and conclusions of the Comptroller General of the United States resulting from the monitoring and evaluation conducted under this subsection, including evaluations of how successfully the Department of Homeland Security is meeting the non-homeland security functions of the Department; and

(C) any recommendations for legislation or administrative action the Comptroller General of the United States considers appropriate.

(e) PERFORMANCE REPORTS.—In performance reports submitted under section 1116 of title 31, United States Code, the Department of Homeland Security shall—

(1) clarify homeland security and non-homeland security function performance; and

(2) fully describe and evaluate the performance of homeland and non-homeland security functions and goals to Congress.

By Ms. LANDRIEU (for herself and Mr. CORZINE):

S. 911. A bill to amend the Internal Revenue Code of 1986 to provide a rebate of up to $765 to individuals for

payroll taxes paid in 2001, to provide employers with an income tax credit of up to $765 for payroll taxes paid during the payroll tax holiday period, and for other purposes; to the Committee on Finance.

Ms. LANDRIEU. Mr. President, we are living in difficult economic times. Too many people are out of work and the economy is not growing enough to put them back to work permanently. The March unemployment rate was 5.8 percent and it has been holding around this mark for about a year. More bad news came just last week when the number of jobless claims soared to 445,000 for the week ending March 29. That is the highest number of weekly claims for unemployment benefits in almost a year.

While unemployment has been rising, other economic indicators are dropping. New orders for manufactured goods in February decreased $4.9 billion or 1.5 percent; shipments also fell 1.5 percent, the largest decrease since February of last year.

These cold, hard numbers cannot measure the unease and uncertainty many Americans feel today. The Conference Board Consumer Confidence Index fell 2 more points in March after a 3 point drop in February. When your neighbor is out of work and cannot find a job, you worry that you might be next. So you hold off on buying that new washing machine, the new car you need to get to work, or you put that dream vacation on hold. Americans have experienced losses in their pensions and 401(k) plans. When you combine all of this with the uncertainty surrounding the war against terrorism and the war with Iraq, you create a great drag on the economy.

I think all of my colleagues agree that the economy is not where we want it to be right now. We agree that it needs a booster shot. We have partisan disagreement over specifics and the size of the stimulus. But if we put aside our partisan differences, I believe we can come up with a bipartisan solution to help the economy in the short term.

We can accomplish this if we agree on a few, narrow principles for an economic stimulus plan. First, we should aim toward providing an immediate boost to the economy. We do not need tax cuts that will only begin to help several years downs the road. The economy needs help today. Second, the urgent need for the boost today means that the economic stimulus plan must be simple and easy to administer so that full effects can be felt right away. Third, I believe that a stimulus plan must be fiscally responsible. While the economy needs a boost today, that boost should not come at the expense of our ability to meet our needs tomorrow. And finally, the stimulus package must be equitable. It must be fair. It should touch all Americans, not just a select few.

Today, along with my colleague Senator CORZINE, I am introducing one idea for economic stimulus that meets all of these principles. We propose that all working Americans receive tax relief equivalent to the amount of payroll taxes paid on the first $10,000 of earnings—a total of $765. The rebate would be made in two installments. The first would come within 2 months of passage of the bill and the second would come by December 1st of this year. Employers would also receive an equivalent tax credit for their employees.

This plan meets the principles I have outlined. It is a short-term plan that will put spending money in the hands of working Americans. It will be simple to administer—rebate checks were a part of the tax cut we passed in 2001. The plan is fiscally responsible: the rebate checks will be paid out of general revenues and not from the Social Security trust fund. Finally, this plan is fair. Every working American will benefit.

Mr. President, I hope the Congress will act quickly to revive our economy. Today, Senator CORZINE and I are putting one idea forward. My colleagues have a variety of other ideas that they will put forward. The Senate should look at each and put together a final package that is simple, immediate, fair, and fiscally responsible.

Mr. CORZINE. Mr. President, I am proud to join with Senator LANDRIEU in introducing the Wage Tax Cut Act, legislation that would provide an immediate boost to America's economy by providing wage tax relief to all working Americans and to businesses.

In short, this proposal would give all working Americans a wage tax break of up to $765, equivalent to the payroll taxes they have paid on the first $10,000 of their earnings in the year 2001. Working couples would receive tax relief of up to $1,530. This is a 1-year proposal in which all payments and tax credits would come out of the General Treasury. The Social Security and Medicare trust funds would not be affected in any way.

Every working American and business-owner would benefit from our proposal. This $765 tax cut would help American families make ends meet and stimulate the economy. It would pay for 5 week's worth of groceries for a family of four; more than 2 months of child care; 3½ months of utility bills; and 7 months of gasoline.

The act would provide business-owners—small and large—a tax credit for up to $765 on the wages of each of their employees. The tax credit for businessowners would put more money in the hands of employers to spur investment in new people, plant, and equipment. By reducing payroll taxes, which amount to a tax on labor, we would encourage more employers to hire new personnel, and to keep those they now have.

That is why the Business Roundtable, which represents 150 of the country's largest corporations with over 10 million employees, has endorsed the concept of payroll-based tax relief that we are proposing today.

This is a simple, fair, and affordable economic stimulus plan that will get money in the hands of consumers and businesses that will be immediately reinvested in our economy.

Unlike the President's proposed tax plan, the Wage Tax Cut Act would provide immediate help to the economy, without being fiscally irresponsible. At $180 billion, its cost is only about 15 percent of the $1.3 trillion in tax cuts included in the conference report on the budget resolution.

At this important time in our Nation's history, when thousands of young men and women are bravely serving their country, we need to ensure that the America to which they return is vibrant and strong. This proposal would help create the jobs they need, and the prosperity they deserve.

In December 2001, when Senator BILL FRIST supported—in fact his own Web site articulated—the stimulative impact that payroll tax relief could have. It quoted the senator as saying:

> A payroll tax holiday is truly a stimulative, temporary tax cut that would be welcome news for most Americans, especially during the holiday season. As economic growth stagnates and unemployment numbers increase, putting additional money in consumers' pockets will provide a much needed economic boost.

Senator FRIST continued:

> The key is for Congress to respond and pass a stimulus bill now, and I believe that this proposal could provide us with a bipartisan solution.

Senator FRIST was right on the mark about the need, and stimulative impact, of payroll tax relief then. It is my hope that Majority Leader FRIST, and the rest of my colleagues, today will stand behind those words and support this proposal to help reinvigorate out economy.

By Mr. SMITH (for himself, Mr. BREAUX, and Mr. HATCH):

S. 914. A bill to amend the Internal Revenue Code of 1986 to apply look-thru rules for purposes of the foreign tax credit limitation to dividends from foreign corporations not controlled by a domestic corporation; to the Committee on Finance.

Mr. SMITH. Mr. President I rise today to introduce legislation to simplify an unnecessarily complex portion of the tax code that serves as an impediment to U.S. businesses attempting to compete in foreign markets. I am proud to be joined in this effort by my friends and colleagues Sens. BREAUX and HATCH. The Foreign Tax Credit, FTC, was designed to ensure that U.S. corporations were not subject to double taxation on foreign income. A number of limitations were placed on these credits in order to guard against attempts to reduce U.S. taxes on income earned here. Consequently, income earned abroad is sorted into separate ''baskets'' based on how the income is earned, also known as ''look-through'' treatment.

Unfortunately, income from certain corporate joint ventures has not always been afforded look-through treatment. In the past, income from a 10/50 company, a U.S. firm has substantial ownership, at least 10 percent but not a controlling interest 50 percent, was subject to different tax treatment. In 1997, Congress attempted to address disparity with legislation affording look-through treatment for dividends paid by 10/50 companies. However, the bill included vague transition rules that were complex and expensive for U.S. companies.

Our bill would resolve these transition issues by restoring parity in the tax treatment of joint-venture income to other income earned overseas by U.S. companies. Everyone, from the Joint Committee on Taxation in the 2001 simplification study to the Clinton Administration in its budget documents, has called for simplification in this area.

Legal and political realities in foreign markets often necessitate the use of corporate joint ventures with local firms. U.S. international tax rules should not penalize companies with overly complicated and costly limitations purely because they choose or are forced to do business in a certain form. The 10/50 transition rules didn't allow the full use of foreign tax credits, thus over-taxing income generated from these business ventures. We need to eliminate the last vestiges of the 10/50 regime in order to level the international playing field for U.S. companies.

I ask that all my colleagues consider and support this important legislation. I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 914

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LOOK-THRU RULES TO APPLY TO DIVIDENDS FROM NONCONTROLLED SECTION 902 CORPORATIONS.

(a) IN GENERAL.—Paragraph (4) of section 904(d) of the Internal Revenue Code of 1986 (relating to separate application of section with respect to certain categories of income) is amended to read as follows:

''(4) LOOK-THRU APPLIES TO DIVIDENDS FROM NONCONTROLLED SECTION 902 CORPORATIONS.—

''(A) IN GENERAL.—For purposes of this subsection, any dividend from a noncontrolled section 902 corporation with respect to the taxpayer shall be treated as income in a separate category in proportion to the ratio of—

''(i) the portion of earnings and profits attributable to income in such category, to

''(ii) the total amount of earnings and profits.

''(B) SPECIAL RULES.—For purposes of this paragraph—

''(i) IN GENERAL.—Rules similar to the rules of paragraph (3)(F) shall apply.

''(ii) EARNINGS AND PROFITS.—

''(I) IN GENERAL.—The rules of section 316 shall apply.

''(II) REGULATIONS.—The Secretary may prescribe regulations regarding the treatment of distributions out of earnings and profits for periods before the taxpayer's acquisition of the stock to which the distributions relate.

''(iii) DIVIDENDS NOT ALLOCABLE TO SEPARATE CATEGORY.—The portion of any dividend from a noncontrolled section 902 corporation which is not treated as income in a separate category under subparagraph (A) shall be treated as a dividend to which subparagraph (A) does not apply.

''(iv) LOOK-THRU WITH RESPECT TO CARRYFORWARDS OF CREDIT.—Rules similar to the rules of subparagraph (A) also shall apply to any carryforward under subsection (c) from a taxable year beginning before January 1, 2003, of tax allocable to a dividend from a noncontrolled section 902 corporation with respect to the taxpayer.''.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (E) of section 904(d)(1) of the Internal Revenue Code of 1986, as in effect both before and after the amendments made by section 1105 of the Taxpayer Relief Act of 1997, is hereby repealed.

(2) Section 904(d)(2)(C)(iii) of such Code, as so in effect, is amended by striking subclause (II) and by redesignating subclause (III) as subclause (II).

(3) The last sentence of section 904(d)(2)(D) of such Code, as so in effect, is amended to read as follows: ''Such term does not include any financial services income.''.

(4) Section 904(d)(2)(E) of such Code is amended—

(A) by inserting ''or (4)'' after ''paragraph (3)'' in clause (i), and

(B) by striking clauses (ii) and (iv) and by redesignating clause (iii) as clause (ii).

(5) Section 904(d)(3)(F) of such Code is amended by striking ''(D), or (E)'' and inserting ''or (D)''.

(6) Section 864(d)(5)(A)(i) of such Code is amended by striking ''(C)(iii)(III)'' and inserting ''(C)(iii)(II)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

By Mr. ALEXANDER (for himself, Mr. LEVIN, Mr. WARNER, and Mr. BINGAMAN):

S. 915. A bill to authorize appropriations of fiscal years 2004, 2005, 2006, 2007, and 2008 for the Department of Energy Office of Science, to ensure that the United States is the world leader in key scientific fields by restoring a healthy balance of science funding, to ensure maximum use of the national user facilities, and to secure the Nation's supply of scientists for the 21st century, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 915

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Energy and Science Research Investment Act of 2003''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the Office of Science of the Department of Energy is the largest Federal sponsor of civilian research in the physical sciences and plays a major role in supporting interdisciplinary research that contributes to other scientific fields, including the life sciences, mathematics, computer science, engineering, and the environmental sciences;

(2)(A) Department of Energy laboratories have scientific capabilities that are unmatched in typical academic or industrial institutions;

(B) scientific teams of the laboratories are capable of developing integrated approaches to grand scientific challenges that are often beyond the reach of individual experimenters; and

(C) the Human Genome Project exemplifies that capability;

(3) the facilities at the Department of Energy laboratories are invaluable to scientists across disciplines, including those from academia, industry, and government;

(4)(A) for more than half a century, science research has had an extraordinary impact on the economy, national security, medicine, energy, life sciences, and the environment; and

(B) in the economic arena, studies show that about half of all United States post-World War II economic growth is a direct result of technological innovation stemming from scientific research;

(5) the Office of Science programs, in constant dollars, have been flat funded for more than a decade, placing the scientific leadership of the United States in jeopardy and limiting the generation of ideas that will enhance the security of the United States and drive future economic growth;

(6)(A) because the cost of conducting research increases at a faster rate than the Consumer Price Index, flat funding for the Office of Science has led to a decline in the number of grants awarded, students trained, and scientists supported; and

(B) flat and erratic funding has also led to an underuse of the facilities that the United States has invested hundreds of millions of dollars to construct; and

(7) higher funding levels for the Office of Science will provide more opportunities to support graduate students in research at universities in the fields of mathematics, engineering, and the physical sciences, helping to alleviate an increasing over-reliance on foreign talent in these fields.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS FOR SCIENCE PROGRAMS.

(a) PROGRAM DIRECTION.—The Secretary of Energy, acting through the Office of Science, shall—

(1) conduct a comprehensive program of fundamental research, including research on chemical sciences, physics, materials sciences, biological and environmental sciences, geosciences, engineering sciences, plasma sciences, mathematics, and advanced scientific computing;

(2) maintain, upgrade, and expand the scientific user facilities maintained by the Office of Science and ensure that the facilities are an integral part of the departmental mission for exploring the frontiers of fundamental science;

(3) maintain a leading-edge research capability in the energy-related aspects of nanoscience and nanotechnology, advanced scientific computing and genome research;

(4) ensure that the fundamental science programs of the Department of Energy, as appropriate, help inform the applied research and development programs of the Department; and

(5) ensure that Department of Energy research programs support sufficient numbers of graduate students to maintain the pipeline of scientists and engineers that is critical for the future vitality of Federal laboratories and overall United States science leadership.

(b) AUTHORITIES OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) for fiscal year 2004, $3,785,000,000;
(2) for fiscal year 2005, $4,153,000,000;
(3) for fiscal year 2006, $4,586,000,000;
(4) for fiscal year 2007, $5,000,000,000; and
(5) for fiscal year 2008, $5,400,000,000.

Mr. LEVIN. Madam President, today I am pleased to introduce, with Senators ALEXANDER, BINGAMAN and WARNER, legislation that would authorize increased funding for the Department of Energy's, DoE, Office of Science. For two decades, funding for the Office of Science has remained stagnant while the cost of conducting cutting-edge research has continued to rise. Inadequate funding levels for the Office of Science, one of our Nation's leading sources of funding for research in the physical sciences, threatens our Nation's leadership in all sciences and thus also our economic well-being and our security. In the past fifty years, roughly one-half of the Nation's economic growth has been derived from investments in science and technology.

The DoE's Office of Science portfolio is extensive. It is the chief sponsor of major research and user facilities benefitting researchers in the life sciences, physics, chemistry, environmental sciences, mathematics, computer science, and engineering. Among these disciplines, the Office of Science possesses primary responsibility for research in fusion energy physics, nuclear physics, and high energy physics. Taken together, this research supports the DoE's responsibilities for energy security and defense.

While much of this work is conducted by scientists and researchers at our world-class national labs, university-based research is greatly enhanced by DoE Office of Science funds. Over one-fifth of its budget is directed to university research, with 49 States receiving funding. This funding plays a central role in supporting significant, long-term, peer-reviewed basic research. Such on-campus research helps attract motivated students to the physical sciences. By stimulating the curiosity of talented students, and giving them a chance to engage in quality scientific work, the Office of Science expands our knowledge base while training the next generation of scientists and engineers.

The University of Rochester's Laboratory for Laser Energetics shows the value that is posed by DoE's efforts to support on campus research be it through the DoE's Office of Science or other DoE programs. Since its founding in 1970, this lab has helped produce 161 Ph.D.'s. Currently 57 students are pursuing their doctorates while working at this facility. Additionally, the lab employs dozens of undergraduates and helps bring high school students to the facility each summer. By supporting nearly 2000 researchers at more than 250 universities and institutions in cutting edge research areas such as physics, nanotechnology, materials, genomics, and superconductivity, the Office of Science is able to help draw students to the sciences.

It is the creation of the next generation of scientists that will fuel our nation's economic development and staff our nation's critical DoE facilities. According to the DoE Inspector General the ''Department has been unable to recruit and retain critical scientific and technical staff in a manner sufficient to meet identified mission requirements. . . . [I]f this trend continues, the Department could face a shortage of nearly 40 percent in these classifications within five years.''

If we do not increase funding for the DoE's Office of Science: maintenance backlogs will increase even further at major DoE facilities, major construction initiatives will lapse and even fewer research grants will be funded. As a result, our Nation's leadership in overall science and technology will be threatened since the physical sciences provide much of the core knowledge and instrumentation that fuel advances in many other critical fields of knowledge.

Increasing funds for the DoE's Office of Science will support research in exciting fields such as: nanotechnology, high energy physics, genomics and supercomputing. By investing in the Office of Science, we can help scientists and engineers as they expand our knowledge of the universe and inform our interactions with it.

By Mr. BENNETT:

S. 916. A bill to establish the National Mormon Pioneer Heritage Area in the State of Utah, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. BENNETT. Madam President, I rise today to introduce the ''National Mormon Pioneer Heritage Area Act of 2003.''

The story behind and about the Mormon pioneers' 1400 mile trek from Illinois to the Great Salt Lake Valley is one of the most compelling and captivating in our Nation's history. This legislation would designate as a National Heritage Area an area that spans some 250 miles along Highway 89 and encompasses outstanding examples of historical, cultural, and natural resources that demonstrate the colonization of the western United States, and the experience and influence of the Mormon pioneers in furthering that colonization.

The landscape, architecture, artisan skills, and events along Highway 89 convey in a very real way the legacy of the Mormon pioneers' achievements. The community of Panquitch for example, has an annual Quilt Day celebration to commemorate the sacrifice and fortitude of its pioneers whose efforts saved the community from starvation in 1864. The celebration is in remembrance of the Quilt Walk, a walk in which a group of men from Panquitch used quilts to form a path that would bear their weight across the snow. This quilt walk enabled these men to cross over the mountains to procure food for their community, which was facing starvation as it experienced its first winter in Utah.

Another example of the tenacity of pioneers can be seen today at the Hole-in-the-Rock. Here, in 1880, a group of 250 people, 80 wagons, and 1000 head of cattle upon the Colorado River Gorge. Finding no pathways down to the river, the pioneers decided to use a narrow crevice leading down to the bottom of the gorge. To make the crevice big enough to accommodate wagons, the pioneers spent six weeks enlarging the crevice by hand, using hammers, chisels, and blasting powder. They then attached large ropes to the wagons as they began their descent down the steep incline. It is because of such tenacity and innovation on the part of pioneers that the western United States was shaped the way it was and much of that has contributed to the way of life and landscape still found in the West today.

The National Mormon Pioneer Heritage Area will serve as a special recognition of the people and places that have contributed greatly to our nation's development. It will allow for the conservation of historical and cultural resources, the establishment of interpretive exhibits, will increase public awareness of the surviving skills and crafts of those living along Highway 89, and specifically allows for the preservation of historic buildings. In light of the benefits associated with preserving the rich heritage of the founding of many of the communities along Highway 89, my legislation has broad support from Sanpete, Sevier, Piute, Garfield, and Kane counties and is a locally based, locally supported undertaking.

I believe this legislation will provide an exciting platform from which a significant part of our Nation's history can be highlighted. The Senate passed this legislation last year as part of a larger national heritage area package. While the overall package was not considered by the other body before the last Congress adjourned, I look forward to working with my colleagues in the Senate and the administration to pass this legislation during this session.

By Ms. MURKOWSKI:

S. 917. A bill to amend title 23, United States Code, to require the use of a certain minimum amount of funds for winter motorized access trails; to the Committee on Environment and Public Works.

Ms. MURKOWSKI. Madam President, I rise to introduce a bill with great significance for snowmachine and snowmobile advocates both in Alaska and nationwide.

As many of my colleagues know, the use of snowmobiles is growing as a form of recreation. There are an estimated 1.64 million snowmobiles currently in use. In my State of Alaska, and in other northern States, travel by snowmobile goes beyond recreation. In many areas it is a regular form of transportation when snow prevents

people from traveling any other way. Snowmobiles are used regularly to visit neighbors, to hunt for a family's food supply, to carry people who are sick or injured to a place they can receive care. In many parts of Alaska, snowmobiles are as common as cars.

Unfortunately, there is no existing program to provide for the proper marking of snowmobile trails, to maintain trails, or even to encourage safe use of these machines. The bill I am introducing today is intended to correct that situation.

First, my bill directs the Secretary of Transportation to establish a snowmobile education program. Second, the bill directs the Secretary, working with the snowmobile industry and others, to estimate the amount of fuel tax attributable to snowmobile use in each State, and provides that at least the same dollar amount be dedicated to the acquisition, design, planning, construction and maintenance of snowmobile trails.

At present, 30 percent of the Recreational Trails program funding is reserved for motorized uses, which may be combined with money for other uses, to establish multiple-use trails and associated facilities. However, although a portion of this funding comes from the tax paid for fuel used in snowmobiles, there is no guarantee that any of that money actually is used to benefit snowmobile activities.

My bill takes nothing away from any other part of the Recreational Trails program—it simply ensures that each State spends on snowmobiles what is collected from snowmobiles. That is simple fairness.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 917

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. WINTER MOTORIZED ACCESS TRAILS.

Section 206 of title 23, United States Code, is amended—

(1) in subsection (a), by adding at the end the following:

''(3) SNOWMACHINE.—The term 'snow machine' means a motorized off-road vehicle intended to operate on snow, and which is propelled by means of a revolving track or tracks.''; and

(2) in subsection (d), by adding at the end the following:

''(5) WINTER MOTORIZED ACCESS TRAILS.—

''(A) USE OF FUNDS.—

''(i) DETERMINATION BY THE SECRETARY.—The Secretary shall annually estimate revenues to the Highway Trust Fund derived from fuel purchased in each State for use in snowmachines, using information submitted by—

''(I) the Department of Commerce;

''(II) the Department of the Treasury;

''(III) the International Snowmobile Manufacturers Association; and

''(IV) any other appropriate sources.

''(ii) USE OF FUNDS.—

''(I) IN GENERAL.—Of amounts made available to a State for motorized access under the recreational trails program, not less than the amount that is equal to the revenues derived from fuel purchased for use in the State by snowmachines, as estimated by the Secretary under clause (i), shall be used for activities that enhance winter motorized recreational trails, including—

''(aa) trails on Bureau of Land Management or National Forest land where such uses are not prohibited by law; and

''(bb) trails designed for diverse uses in other seasons.

''(II) ACTIVITIES.—A State may use funds under subclause (I) to—

''(aa) locate, survey, and map winter motorized-use or multiple-use trails;

''(bb) document or secure public rights-of-way for trails;

''(cc) reroute trails where necessary;

''(dd) design and construct new trail routes;

''(ee) link existing trail systems;

''(ff) build trailhead facilities;

''(gg) improve trails for safe travel and multiple uses;

''(hh) establish safety caches of first aid and emergency gear;

''(ii) sign and mark trails;

''(jj) purchase trail building and grooming equipment; and

''(kk) mobilize trail volunteers as maintenance crews, safety patrols, and trail ambassadors.

''(B) PUBLIC INFORMATION CAMPAIGNS.—

''(i) IN GENERAL.—Of the sums available to the Secretary for the administration of and research and technical assistance under the recreational trails program and for administration of the National Recreational Trails Advisory Committee, $50,000 shall be used for each fiscal year for public information campaigns educating the public about, and encouraging, the safe use of snowmachines.

''(ii) CONTENT.—In designing the content of public information campaigns under clause (i), the Secretary shall consult with—

''(I) representatives of snowmachine manufacturers and users; and

''(II) the Advertising Council.''.

By Mr. FEINGOLD (for himself, Mr. LEAHY, Mr. REID, Mr. HAGEL, Mr. JOHNSON, Mr. LIEBERMAN, Mr. SARBANES, Mr. DODD, Mr. KOHL, and Mr. JEFFORDS):

S. 918. A bill to require the Secretary of Defense to implement fully by September 30, 2004, requirements for additional Weapons of Mass Destruction Civil Support Teams; to the Committee on Armed Services.

Mr. FEINGOLD. Mr. President, the tragic events of September 11, 2001, and the ongoing military action in Iraq have changed the way that our country thinks about defense policy, including about how we protect our citizens here at home.

For that reason, it is vitally important that we fully implement section 1403 of Public Law 107–314, the Bob Stump National Authorization Act for Fiscal Year 2003, which requires the Secretary of Defense to establish an additional 23 Weapons of Mass Destruction Civil Support Teams, WMD–CSTs, and that at least one team be located in each State and territory of the United States.

WMD–CSTs are made up of 22 full-time National Guard personnel who are specially trained and equipped to deploy and assess suspected nuclear, chemical, biological, or other threats in support of local first responders. There are currently 32 full-time and 23 part-time WMD–CSTs across the country.

Chemical, biological, and other threats present new challenges to our military and to local responders. The WMD–CSTs play a vital role in assisting local first responders in investigating and combating these new threats. The September 11 terrorist attacks, and the terror alerts issued by the Department of Homeland Security, emphasize the need to have full-time WMD–CSTs in each State.

As the events of September 11 so clearly and tragically demonstrated, local first responders are on the front lines of combating terrorism and responding to other large-scale incidents. As we rethink the security needs of our country, we should support the creation of an additional 23 full-time WMD–CSTs as soon as possible. Establishing these additional full-time teams will improve the overall capability of Wisconsin and the other 18 States and 4 territories with part-time teams to prepare for and respond to potential threats to the future.

In light of the tragic events of September 11, the ongoing threat of terrorist activities, and the military action in Iraq, the presence of at least one WMD–CST in each State is all the more imperative.

The provisions included in last year's Defense authorization bill represent an important step forward in the effort to establish WMD–CSTs in each State and territory. My bill would build on this progress by including a deadline by which these teams have to be established and providing the resources necessary to staff, equip, train, and operate these teams.

The legislation that I introduce today, the Weapons of Mass Destruction Civil Support Team Implementation Act of 2003, would require the Secretary of Defense to fully implement section 1403 by September 30, 2004. The costs associated with setting up these new teams would be paid for by an across-the-board cut to the fiscal year 2004 procurement account.

I am pleased to be joined in this effort by the Senator from Vermont, Mr. LEAHY, the Senator from Nevada, Mr. REID, the Senator from Nebraska, Mr. HAGEL, the Senator from South Dakota, Mr. JOHNSON, the Senator from Connecticut, Mr. LIEBERMAN, the Senator from Maryland, Mr. SARBANES, the Senator from Connecticut, Mr. DODD, the Senior Senator from Wisconsin, Mr. KOHL, and the Senator from Vermont, Mr. JEFFORDS.

The terrorist attacks and the subsequent mobilization of tens of thousands of National Guardsmen and reservists, and the activation of hundreds of thousands of guardsmen and reservists for the military campaign in Iraq, also underscore the need to provide adequate resources for and to ensure full-time manning of the National Guard. As we

move to establish at least one 22-member WMD–CST in each State, we should also allocate the necessary resources to ensure adequate National Guard personnel end-strengths to provide for full-time manning and for the additional personnel necessary for these new teams.

For that reason, our bill would also authorize an additional 506 full-time National Guard positions to man these new teams.

Given the important role that the men and women of the National Guard play in our ongoing missions at home and abroad, we should ensure that the establishment of these important teams does not put at risk full-time manning in other vital areas of the National Guard's mission.

It is important that the additional WMD–CSTs are established as soon as possible.

I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 918

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Weapons of Mass Destruction Civil Support Teams Implementation Act of 2003''.

SEC. 2. FULL IMPLEMENTATION OF REQUIREMENTS FOR ADDITIONAL WEAPONS OF MASS DESTRUCTION CIVIL SUPPORT TEAMS.

(a) DEADLINE FOR FULL IMPLEMENTATION.—The Secretary of Defense shall fully implement the requirements regarding the establishment and number of Weapons of Mass Destruction Civil Support Teams under section 1403(a) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2676; 10 U.S.C. 12310 note) not later than September 30, 2004.

(b) PERSONNEL.—In order to meet the requirement in subsection (a), the authorized end strengths for members of the National Guard serving on full-time National Guard duty as of September 30, 2004, shall be increased over the number of such members otherwise authorized by law by the number of such members as follows:

(1) For the Army National Guard of the United States, 414 members of the National Guard.

(2) For the Air National Guard of the United States, 92 members of the National Guard.

(c) FUNDING.—(1) From the aggregate amount authorized to be appropriated for procurement for the Armed Forces by title I of the National Defense Authorization Act for Fiscal Year 2004, there shall be available (and may be transferred to other authorizations of appropriations, as appropriate) such sums as the Secretary considers appropriate to meet the requirement in subsection (a) in accordance with this section.

(2) The Secretary shall allocate among the accounts for procurement for the Armed Forces for fiscal year 2004 the reduction in amounts available for such procurement under title I of that Act by reason of the availability of funds under paragraph (1) to meet the requirement in subsection (a).

By Mr. BURNS (for himself, Mr. ROCKEFELLER, Mr. DORGAN, Mr. CRAIG, Mr. BAUCUS, Mr. COLEMAN, and Mr. JOHNSON):

S. 919. A bill to amend title 49, United States Code, to enhance competition among and between rail carriers in order to ensure efficient rail service and reasonable rail rates, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. ROCKEFELLER, Mr. President, I am proud today to join a bipartisan and geographically diverse group of Senators to introduce the Railroad Competition Act of 2003. When enacted, the Railroad Competition Act will benefits rail shippers, retail shoppers, and, I believe, the railroad industry itself, by promoting real competition in the nation's freight rail transportation sector.

I am especially proud to be working on this issue alongside two of my colleagues, Senators DORGAN and BURNS, with whom I have shared this effort for many years. This is an issue I have been dealing with since my first days as Governor of West Virginia. I cosponsored similar bipartisan legislation during my first year as a United States Senator. Including today's introduction. I have sponsored legislation in six different Congresses going back to 1985 to try to instill competition in the freight rail market to invigorate an industry that is essential to the commerce of this Nation. This is the fourth straight Congress in which Senators BURNS and DORGAN have joined me to fight for fairness for shippers in our states and throughout the country.

I frequently say that I have worked on this for my entire Senate career, and with little discernible success. Still, I am not dissuaded from pursuing this legislation again because I know our cause is right. What this bill does is really very simple. We seek nothing more than a freight rail industry governed by the principles of capitalism—competition, service, fair prices, and the ability of sophisticated actors to conduct arms-length negotiations for these things. We also seek a return—not to the regulated industry that predates the Staggers Act—but to the competitive freight rail industry envisioned by the Congress that passed it.

If we are successful in this effort, it will mean a newly level playing field for shippers and railroads. It will mean goods being picked up on time and being delivered on time. It will mean products traveling short distances will not be priced per mile at a price that is almost usuriously higher than products traveling great distances. Shippers moving small amounts of product will not be unduly disadvantaged by railroads who answer to no person or governmental entity. What this bill will not do, is re-regulate the railroads.

The Railroad Competition Act will do the following: clarify that the STB shall promote effective competition among rail carriers, helping to maintain both reasonable freight rail rates and consistent and efficient rail service; create a system if ''final offer'' arbitration for matters before the STB; authorize the STB to remove so-called ''paper barriers'' in place for ten years or more that prevent short-line and regional railroads from providing improved service to shippers; remove the requirement for shippers to demonstrate ''Anti-Competitive Conduct'' on the part of railroads—retains statutory authority for STB to act in the ''public interest''; cap filing fees for STB rate cases at the level of Federal district courts, reducing filing fee from approximately $65,000; require railroads to quote rates to their customers; call for a Department of Transportation, DOT, study of rail competition; allow States to petition the STB for declarations of ''areas of inadequate rail competition,'' and creates applicable remedies; create position of Rail Customer Advocate at U.S. Department of Agriculture (USDA).

Perhaps the most striking aspect of the freight rail industry that the authors of the Staggers Act sought to create, and to which we hope to give new life with this bill, is really fairly mundane. Upon enactment of this legislation, shippers weighing their transportation options will be able to get railroads to do the most basic thing that occurs in business relationships—quote a price for the service requested. In other words, railroads will tell shippers how much it is going to cost to move a certain amount of product from Point A to Point B. Hardly remarkable, hardly earth-shattering, but that very simple, everyday aspect of business negotiations is so rare in the freight rail sector today that it is hardly ever seen.

How can this be? How can railroads get away with not telling their customers how much they are going to be charged for a service? Railroads can carry out this bizarre practice, as well as other amazingly anti-competitive business practices, because they are one of the last unfettered monopolies in our economy. The Staggers Act only partially deregulated our freight rail industry, and provided for a government entity to protect competition for shippers. That authority fell then to the now-defunct Interstate Commerce Commission, ICC, and the power should now be exercised by the Surface Transportation Board, STB. The ICC did not do a very good job of protecting competition, and the STB has fairly consistently chosen not to.

This has resulted in a freight rail market in which customers have no power. In real-world terms, this means that electricity produced from coal, and virtually everything you buy in the store—food, medicines, paper products, plastics, and anything made from any number of basic chemical products—is more expensive than it should be because railroads abuse their monopoly power to keep rail rates artificially high.

In fact, even back in the bad, old days of the ICC-regulated rail sector,

many railroads enjoyed ''natural'' monopolies over portions of their network. In most cases, this fact could usually be balanced by the number of railroads providing service. In the twenty-three years since Congress passed the Staggers Act, however, the previous number of Class I freight railroads—more than 40—has dwindled down to an all-powerful few. This has expanded a handful of scattered ''natural'' monopolies to basically four regional monopolies—two in the eastern United States, and two in the West (with the smallest of the Class I railroads operating its small network of track along the Mississippi). There is no balance in the system; there is only the railroad industry charging its take-it-or-leave-it prices and providing woefully bad service.

I would conclude by saying to my colleagues that this legislation has laudable goals, but it is not revolutionary. We have seen how competition in other industries has strengthened the players willing and able to compete. It is not the reactionary, re-regulatory vehicle the freight rail industry will try to tell you it is. It is nothing more and nothing less than an attempt to implement fairness where it has been lacking. The viability of so many of our industries—the railroads included—depends on this legislation becoming law.

Mr. DORGAN. Madam President, I rise today to speak about a bill, the Railroad Competition Act of 2003, which, along with Senators BURNS, ROCKEFELLER, CRAIG, BAUCUS, COLEMAN, and JOHNSON, I hope will introduce a bit of competition and better service in our railroad industry. The truth is that our rail system is completely broken; deregulation has only led to a system dominated by regional monopolies and both shippers and consumers are paying the price.

Since the supposed deregulation of the rail industry in 1980, the number of major Class I railroads has been allowed to decline from approximately 42 to only 4 major U.S. railroads today. Four mega-railroads overwhelmingly dominate railroad traffic, generating 95 percent of the gross ton-miles and 94 percent of the revenues, controlling 90 percent of all U.S. coal movement; 70 percent of all grain movement and 88 percent of all originated chemical movement. This drastic level of consolidation has left rail customers with only two major carriers operating in the East and two in the West, and has far exceeded the industry's need to minimize unit operating costs.

But consolidation has not happened in a vacuum. Over the years, regulators have systematically adopted policies that so narrowly interpret the procompetitive provisions of the 1980 statute that railroads are essentially protected from ever having to compete with each other. As a consequence rail users to have no power to choose among carriers either in terminal areas where switching infrastructure makes such choices feasible, nor can rail users even get a rate quoted to them over a ''bottleneck'' segment of the monopoly system.

The negative results of this approach have been astonishing in North Dakota. It costs $2,600 to move one rail car of wheat to Minneapolis, approximately 400 miles. Yet for a similar 400 mile move between Minneapolis and Chicago, it costs only $918 to deliver that car. Not only is that totally unfair to the captive farmer, but in the long run it is unsustainable.

It is actually $500 per car cheaper to ship a carload of corn from Iowa to the PNW, through North Dakota, than it is if that carload were to originate in North Dakota. The farmer in Iowa pays $2,900, while the farmer in North Dakota is charged $3,400.

The same pattern is true with shipments going to the Gulf of Mexico. Minot, ND is 1,732 miles from the gulf whereas the distance to the gulf from Herman, MN is 1,430 miles, a difference of only 332 miles. But when it comes to paying the shipping costs the farmer in Minot pays $1,630 more per car because Minot is just isolated enough that it cannot take advantage of trucks and barges the way Herman, MN, can meaning the price of being captive is $1,600 per carload from central North Dakota.

Another example is Hastings, NE. Hastings is 1,700 miles from the Pacific Northwest, PNW, grain markets in Portland, OR. But, if an elevator from Hastings wants to ship a carload of wheat to the PNW they will pay $4,316. Meanwhile, Minot, ND, is 1,300 miles from Portland, 450 miles closer than Hastings, NE, yet the farmer in Minot will have to pay $4,442 to ship the same carload of wheat to the PNW, a surcharge of $126 for a shipment that is shorter by 400 miles.

How has this happened? Since the deregulation of the railroad industry, it has been the responsibility of the Interstate Commerce Commission, later renamed, the Surface Transportation Board, to make sure that the pro-competitive intent of the law was being upheld. It is the STBs charge to protect captive shippers through ''regulated competition.''

In 1999 the GAO reported on how complicated it is for a shipper to get rate relief under the ''regulated competition'' approach at the STB. The GAO found that this process takes up to 500 days to decide, and costs hundreds of thousands of dollars. That is hardly a rate relief process, but it is the only relief shippers have under the law.

According to the North Dakota Public Service Commission ''while the Staggers Rail Act uses a revenue-to-variable cost ratio of 180 percent as a benchmark for reasonableness, North Dakota's rail rates on wheat often generate ratios of 270 to 400 percent. On an annual basis, North Dakota's farmers and grain shippers pay $50 to $100 million in excess freight rates [each year].''

The Railroad Competition Act of 2003 will seek to improve things by reaffirming the strong role the STB should play in protecting shippers by: clarifying national rail policy; requiring railroads to quote a rate of any given segment; facilitating terminal access and the ability to transfer goods among railroads in terminal areas; removing paper barriers to competition; capping filing fees; creating a Rail Customer Advocacy Office in the Department of Agriculture; designating Areas of Inadequate Rail Competition; and by making the rate relief process cheaper, faster and easier through a streamlined arbitration process.

All Americans, whether they are farmers who need to ship their crops to market, businesses shipping factory goods, or consumers that buy the finished product, deserve to have a rail transportation system with prices that are fair. It is time for Congress to stand up for farmers, businesses, and consumers by making it very clear that the STB has to be a more aggressive defender of competition and reasonable rates.

By Mr. HATCH:

S. 920. A bill to provide for the appointment of additional Federal circuit and district judges, and for other purposes; to the Committee on the Judiciary.

Mr. HATCH. Mr. President, it is my pleasure to introduce today the Federal Judgeship Act of 2003. This bill will alleviate some of the strain on the vastly overburdened Federal courts by creating a total of 57 new judgeships: Eleven new circuit judgeships and 46 new district judgeships. It also converts five existing temporary judgeships to permanent positions. In addition, the bill confers Article III status on the judgeships authorized for the Northern Mariana Islands and the Virgin Islands.

The Judicial Conference of the United States endorses the provisions in this bill. I hope that my colleagues will join me in supporting it.

By Mr. LAUTENBERG (for himself, Mrs. CLINTON, Mr. CORZINE, Mr. DASCHLE, Mr. LEAHY, Ms. MIKULSKI, Mr. SARBANES, and Mr. SCHUMER):

S. 921. A bill to authorize the Secretary of Homeland Security to make grants to reimburse State and local governments and Indian tribes for certain costs relating to the mobilization of Reserves who are first responder personnel of such governments or tribes; to the Committee on the Judiciary.

Mr. LAUTENBERG. Mr. President, I rise to introduce the ''State and Local Reservist First Responders Assistance Act of 2003.'' My bill would reimburse State and local governments for the additional costs they incur when their first responders who also serve in the National Guard or the Reserves are called to active duty for 6 or more months.

I am pleased to have as original cosponsors of my bill Senators CLINTON, CORZINE, DASCHLE, LEAHY, MIKULSKI, SARBANES, and SCHUMER.

The 1.2 million men and women who serve in the Guard and the Reserves are a crucial component of our military. They account for just 8.3 percent of the Defense budget but give us the capability, if necessary, or nearly doubling our Armed Forces personnel.

Not surprisingly, many police, fire, rescue, emergency medical service, and emergency hazardous material disposal personnel serve in the Guard and the Reserves. More and more of these men and women are being called to active duty for longer and longer tours, especially now because of the war with Iraq.

It's critical that we bolster our military capabilities here and abroad. But we must not do it at the expense of our safety and security at home.

Increasingly, I am hearing from State and local officials who are concerned about the toll that Guard and Reserve call-ups are taking on emergency preparedness.

It can be a major problem in smaller towns where just a few call-ups can decimate a local fire or police department. The Town of Ridgewood, for instance, had a patrolman called up who also headed the EMS, emergency medical services. It is costing the town $200,000 to replace him.

Because of the recession that began in March 2001 and the effects of 9–11, State and local governments are financially strapped. We shouldn't leave them ''holding the bag'' when their first responders get called to active duty for months at a time.

My bill would establish a grant program to be administered by the U.S. Department of Homeland Security, DHS. State and local units of government could apply for grants to cover the unanticipated costs associated with replacing a first responder called to active duty for 6 months or more.

Reimbursable costs could include the salary and benefits associated with hiring a temporary replacement or the overtime paid to other emergency personnel who ''fill in'' for the first responder called to active duty.

If a jurisdiction does not pay its reservist and uses the savings to hire a temporary replacement or pay others overtime, those ''costs'' would not be reimbursable. Only net additional costs would be reimbursable.

My bill will help communities in my home State of New Jersey and across the country maintain their ability to respond to terrorist attacks, natural disasters, and other emergencies.

A logical question to ask regarding my bill is, ''How much does it cost?'' The candid answer is, ''I don't know.''

The bill authorizes the appropriation of ''such sums as may be necessary.''

The stipulation in the bill that the first responders must be called to active duty for 6 or more consecutive months is meant to keep the costs of the bill under control and to ensure that the grant program is administratively feasible.

I have tried, so far unsuccessfully, to get a handle on how many first responders have been called to active duty, and for how long. It appears that no one is really keeping track.

The anecdotal evidence of the need for my bill, however, is overwhelming.

According to the Department of Defense, there are a total of 221,186 Reservists and National Guardsmen and women on active duty right now. Many of them, obviously, are first responders.

According to the Police Executive Research Forum, PERF, 452 of 1002 law enforcement agencies and departments across the country surveyed so far have lost personnel to call-ups.

The Democratic Leadership Council, DLC, has determined that 27 of the 44 police departments it has surveyed are experiencing personnel shortfalls caused, in part, by military call-ups.

Of the remaining 17 departments, 15 are in danger of being hurt by call-ups.

According to the DLC, ''About 5 percent of the officers in these departments are reservists or members of the National Guard—and many are already being called up for service in the wars against terrorism, Afghanistan, and Iraq. On average, the activation of only 30 percent of these reserves would cause a personnel shortage in these departments.''

The DLC report, entitled ''Cop Crunch'' and previewed in the March/April issue of Blueprint, lists the following ten jurisdictions as most vulnerable to military call-ups: 1. Fresno, which has about 100 reservists who make up 14.4 percent of the force; 2. Virginia Beach, which has 90 reservists who make up 12.1 percent of the force; 3. Milwaukee, which has 110 reservists who make up 8.2 percent of the force; 4. Miami, which has 86 reservists who make up 8.0 percent of the force; 5. Memphis, which has 143 reservists who make up 7.5 percent of the force; 6. San Antonio, which has 151 reservists who make up 7.4 percent of the force; 7. Los Angeles, which has 650 reservists who make up 7.3 percent of the force; 8. Oklahoma City, which has 70 reservists who make up 6.8 percent of the force; 9. Wichita, which has 41 reservists who make up 6.7 percent of the force; and 10. New Orleans, which has 109 reservists who make up 6.7 percent of the force.

The DLC report also highlighted Baltimore's police department. The City has lost the equivalent of an entire police district, 150 officers, to active duty call-ups.

So, the need for my bill is obvious. State and local governments desperately need our help. We shouldn't put our own communities, our own citizens, at risk to win the war with Iraq.

By Mr. REID (for himself, Mr. KENNEDY, Mr. DURBIN, Mr. BROWNBACK, Mr. COLEMAN, Mr. MCCAIN, Mr. SCHUMER, Mrs. BOXER, Mr. LEAHY, and Mr. HAGEL):

S. 922. A bill to change the requirements for naturalization through service in the Armed Forces of the United States, to extend naturalization benefits to members of the Selected Reserve of the Ready Reserve of a reserve component of the Armed Forces, to extend posthumous benefits to surviving spouses, children, and parents, and for other purposes; to the Committee on the Judiciary.

There being no objection, the bill was ordered to be printed in the RECORD as follows:

Mr. REID. Mr. President, I rise today for myself, Senator KENNEDY, Senator DURBIN, Senator BROWNBACK, Senator COLEMAN, Senator MCCAIN, Senator SCHUMER, Senator BOXER, Senator LEAHY, and Senator HAGEL to introduce this bill, the Naturalization and Family Protection for Military Members Act of 2003, which will expedite the naturalization process for noncitizen soldiers serving in active duty and in the select reserves and enact safeguards to protect noncitizen immediate relatives of American soldiers who are killed in action.

More than 48,900 noncitizens are currently serving in the United States military and hundreds are serving from the State of Nevada. They place their lives on the line for our country every day. In recognition and appreciation of their service, they deserve a naturalization process that does not unnecessarily delay the grant of citizenship or impose other restraints because they are stationed in another country.

These noncitizen soldiers love America so much they are willing to make great sacrifices to protect us and promote our values and even defend the Constitution—although they do not fully enjoy its protections. They deserve better treatment than they currently receive. Like many Americans, I was moved by the story of Corporal Jose Angel Garibay, who came to the United States from Mexico at the age of two months in the arms of a stranger because the trip was too rough for his mother to carry him through the hills near Tijuana herself. At the age of 11 he announced to his brother that he planned to join the United States military. Although a noncitizen, he believed anything was possible in this land of opportunity and hoped to become a police officer. The proudest day for the Garibay family was the day Jose joined the Marines. Sadly, on March 23, at the young age of 21, he died near Nasirivah, Iraq. Who can say that Corporal Garibay, citizen or not, is any less of a hero? Our noncitizen soldiers deserve a system that does not drop current applications or disallow eligible applications for legal permanent residency by their immediate relatives.

This Act will provide necessary relief to current noncitizens serving in active

duty and the ready reserves within the United States military by setting forth an expedited process of naturalization. This Act will also provide protections for noncitizen spouses, unmarried children, and parents of citizen and noncitizen soldiers who are killed as a result of their service to file or preserve their application for lawful permanent residence.

I rise today in support of action that will recognize and honor current noncitizen soldiers in the United States armed forces and will honor the legacy of all of our soldiers who have been killed in action by providing fair and sympathetic treatment of their immediate relatives seeking legal permanent residency.

I ask unanimous consent that the text of the bill be printed in the RECORD.

S. 922

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Naturalization and Family Protection for Military Members Act of 2003''.

SEC. 2. REQUIREMENTS FOR NATURALIZATION THROUGH SERVICE IN THE ARMED FORCES OF THE UNITED STATES.

(a) REDUCTION OF PERIOD FOR REQUIRED SERVICE.—Section 328(a) of the Immigration and Nationality Act (8 U.S.C. 1439(a)) is amended by striking ''three years'' and inserting ''2 years''.

(b) PROHIBITION ON IMPOSITION OF FEES RELATING TO NATURALIZATION.—Title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.) is amended—

(1) in section 328(b)—

(A) in paragraph (3)—

(i) by striking ''honorable. The'' and inserting ''honorable (the''; and

(ii) by striking ''discharge.'' and inserting ''discharge); and''; and

(B) by adding at the end the following:

''(4) notwithstanding any other provision of law, no fee shall be charged or collected from the applicant for filing a petition for naturalization or for the issuance of a certificate of naturalization upon citizenship being granted to the applicant, and no clerk of any State court shall charge or collect any fee for such services unless the laws of the State require such charge to be made, in which case nothing more than the portion of the fee required to be paid to the State shall be charged or collected.''; and

(2) in section 329(b)—

(A) in paragraph (2), by striking ''and'' at the end;

(B) in paragraph (3), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(4) notwithstanding any other provision of law, no fee shall be charged or collected from the applicant for filing a petition for naturalization or for the issuance of a certificate of naturalization upon citizenship being granted to the applicant, and no clerk of any State court shall charge or collect any fee for such services unless the laws of the State require such charge to be made, in which case nothing more than the portion of the fee required to be paid to the State shall be charged or collected.''.

(c) NATURALIZATION PROCEEDINGS OVERSEAS FOR MEMBERS OF THE ARMED FORCES.—Notwithstanding any other provision of law, the Secretary of Homeland Security, the Secretary of State, and the Secretary of Defense shall ensure that any applications, interviews, filings, oaths, ceremonies, or other proceedings under title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.) relating to naturalization of members of the Armed Forces are available through United States embassies, consulates, and as practicable, United States military installations overseas.

(d) TECHNICAL AND CONFORMING AMENDMENT.—Section 328(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1439(b)(3)) is amended by striking ''Attorney General'' and inserting ''Secretary of Homeland Security''.

SEC. 3. NATURALIZATION BENEFITS FOR MEMBERS OF THE SELECTED RESERVE OF THE READY RESERVE.

Section 329(a) of the Immigration and Nationality Act (8 U.S.C. 1440(a)) is amended by inserting ''as a member of the Selected Reserve of the Ready Reserve or'' after ''has served honorably''.

SEC. 4. EXTENSION OF POSTHUMOUS BENEFITS TO SURVIVING SPOUSES, CHILDREN, AND PARENTS.

(a) TREATMENT AS IMMEDIATE RELATIVES.—

(1) SPOUSES.—Notwithstanding the second sentence of section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)), in the case of an alien who was the spouse of a citizen of the United States at the time of the citizen's death and was not legally separated from the citizen at the time of the citizen's death, if the citizen served honorably in an active duty status in the military, air, or naval forces of the United States and died as a result of injury or disease incurred in or aggravated by that service, the alien (and each child of the alien) shall be considered, for purposes of section 201(b) of such Act, to remain an immediate relative after the date of the citizen's death, but only if the alien files a petition under section 204(a)(1)(A)(ii) of such Act within 2 years after such date and only until the date the alien remarries. For purposes of such section 204(a)(1)(A)(ii), an alien granted relief under the preceding sentence shall be considered an alien spouse described in the second sentence of section 201(b)(2)(A)(i) of such Act.

(2) CHILDREN.—

(A) IN GENERAL.—In the case of an alien who was the child of a citizen of the United States at the time of the citizen's death, if the citizen served honorably in an active duty status in the military, air, or naval forces of the United States and died as a result of injury or disease incurred in or aggravated by that service, the alien shall be considered, for purposes of section 201(b) of the Immigration and Nationality Act (8 U.S.C. 1151(b)), to remain an immediate relative after the date of the citizen's death (regardless of changes in age or marital status thereafter), but only if the alien files a petition under subparagraph (B) within 2 years after such date.

(B) PETITIONS.—An alien described in subparagraph (A) may file a petition with the Secretary of Homeland Security for classification of the alien under section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)). For purposes of such Act, such a petition shall be considered a petition filed under section 204(a)(1)(A) of such Act (8 U.S.C. 1154(a)(1)(A)).

(3) PARENTS.—

(A) IN GENERAL.—In the case of an alien who was the parent of a citizen of the United States at the time of the citizen's death, if the citizen served honorably in an active duty status in the military, air, or naval forces of the United States and died as a result of injury or disease incurred in or aggravated by that service, the alien shall be considered, for purposes of section 201(b) of the Immigration and Nationality Act (8 U.S.C. 1151(b)), to remain an immediate relative after the date of the citizen's death (regardless of changes in age or marital status thereafter), but only if the alien files a petition under subparagraph (B) within 2 years after such date.

(B) PETITIONS.—An alien described in subparagraph (A) may file a petition with the Secretary of Homeland Security for classification of the alien under section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)). For purposes of such Act, such a petition shall be considered a petition filed under section 204(a)(1)(A) of such Act (8 U.S.C. 1154(a)(1)(A)).

(C) EXCEPTION.—Notwithstanding section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)), for purposes of this paragraph, a citizen described in subparagraph (A) does not have to be 21 years of age for a parent to benefit under this paragraph.

(b) APPLICATIONS FOR ADJUSTMENT OF STATUS BY SURVIVING SPOUSES, CHILDREN, AND PARENTS.—

(1) IN GENERAL.—Notwithstanding subsections (a) and (c) of section 245 of the Immigration and Nationality Act (8 U.S.C. 1255), any alien who was the spouse, child, or parent of an alien described in paragraph (2), and who applied for adjustment of status prior to the death described in paragraph (2)(B), may have such application adjudicated as if such death had not occurred.

(2) ALIEN DESCRIBED.—An alien is described in this paragraph if the alien—

(A) served honorably in an active duty status in the military, air, or naval forces of the United States;

(B) died as a result of injury or disease incurred in or aggravated by that service; and

(C) was granted posthumous citizenship under section 329A of the Immigration and Nationality Act (8 U.S.C. 1440–1).

(c) SPOUSES AND CHILDREN OF LAWFUL PERMANENT RESIDENT ALIENS.—

(1) TREATMENT AS IMMEDIATE RELATIVES.—

(A) IN GENERAL.—A spouse or child of an alien described in paragraph (3) who is included in a petition for classification as a family-sponsored immigrant under section 203(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(2)) that was filed by such alien, shall be considered (if the spouse or child has not been admitted or approved for lawful permanent residence by such date) a valid petitioner for immediate relative status under section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)). Such spouse or child shall be eligible for deferred action, advance parole, and work authorization.

(B) PETITIONS.—An alien spouse or child described in subparagraph (A) may file a petition with the Secretary of Homeland Security for classification of the alien under section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)). For purposes of such Act, such a petition shall be considered a petition filed under section 204(a)(1)(A) of such Act (8 U.S.C. 1154(a)(1)(A)).

(2) SELF-PETITIONS.—Any spouse or child of an alien described in paragraph (3) who is not a beneficiary of a petition for classification as a family-sponsored immigrant may file a petition for such classification under section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)) with the Secretary of Homeland Security, but only if the spouse or child files a petition within 2 years after such date. Such spouse or child shall be eligible for deferred action, advance parole, and work authorization.

(3) ALIEN DESCRIBED.—An alien is described in this paragraph if the alien—

(A) served honorably in an active duty status in the military, air, or naval forces of the United States;

(B) died as a result of injury or disease incurred in or aggravated by that service; and

(C) was granted posthumous citizenship under section 329A of the Immigration and Nationality Act (8 U.S.C. 1440–1).

(d) PARENTS OF LAWFUL PERMANENT RESIDENT ALIENS.—

(1) SELF-PETITIONS.—Any parent of an alien described in paragraph (2) may file a petition for classification under section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)), but only if the parent files a petition within 2 years after such date. For purposes of such Act, such petition shall be considered a petition filed under section 204(a)(1)(A) of such Act (8 U.S.C. 1154(a)(1)(A)). Such parent shall be eligible for deferred action, advance parole, and work authorization.

(2) ALIEN DESCRIBED.—An alien is described in this paragraph if the alien—

(A) served honorably in an active duty status in the military, air, or naval forces of the United States;

(B) died as a result of injury or disease incurred in or aggravated by that service; and

(C) was granted posthumous citizenship under section 329A of the Immigration and Nationality Act (8 U.S.C. 1440–1).

(e) ADJUSTMENT OF STATUS.—Notwithstanding subsections (a) and (c) of section 245 of the Immigration and Nationality Act (8 U.S.C. 1255), an alien physically present in the United States who is the beneficiary of a petition under paragraph (1), (2)(B), or (3)(B) of subsection (a), paragraph (1)(B) or (2) of subsection (c), or subsection (d)(1) of this section, may apply to the Secretary of Homeland Security for adjustment of status to that of an alien lawfully admitted for permanent residence.

(f) WAIVER OF CERTAIN GROUNDS OF INADMISSIBILITY.—In determining the admissibility of any alien accorded an immigration benefit under this section, the grounds for inadmissibility specified in paragraphs (4), (6), (7), and (9) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) shall not apply.

(g) BENEFITS TO SURVIVORS; TECHNICAL AMENDMENT.—Section 329A of the Immigration and Nationality Act (8 U.S.C. 1440–1) is amended—

(1) by striking subsection (e); and

(2) by striking ''Attorney General'' each place that term appears and inserting ''Secretary of Homeland Security''.

(h) TECHNICAL AND CONFORMING AMENDMENTS.—Section 319(d) of the Immigration and Nationality Act (8 U.S.C. 1430(d)) is amended—

(1) by inserting '', child, or parent'' after ''surviving spouse'';

(2) by inserting '', parent, or child'' after ''whose citizen spouse''; and

(3) by striking ''who was living'' and inserting ''who, in the case of a surviving spouse, was living''.

SEC. 5. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect as if enacted on September 11, 2001.

Mr. KENNEDY. Mr. President, today, my colleagues and I are introducing legislation to recognize the enormous contributions of immigrants in the military. The Naturalization and Family Protection for Military Members Act of 2003 will enable immigrant men and women of our Armed Forces to obtain easier access to naturalization, and it will establish immigration protections for their families if they are killed in action.

In all our wars throughout our history, immigrants have fought side by side and have given their lives to defend America's freedom and ideals. One out of every five recipients of the Congressional Medal of Honor, the highest honor our Nation bestows on our war heroes, have been immigrants. Their bravery is unequivocal proof that immigrants are as dedicated as any other Americans to defend our country.

Today, 37,000 men and women have the status of permanent residents, who are not yet citizens, but are serving in the Army, Navy, Marine, Air Force, and Coast Guard. Another 20,000 permanent residents are serving in the Reserves and the National Guard. Since the war in Iraq began two and a half weeks ago, eight of the dead, two of the missing, and two prisoners of war are immigrants to the United States. Only four were naturalized U.S. citizens.

Granting these men and women posthumous citizenship is the right thing to do, but we must do more. This bill gives members of the armed services who are already lawful permanent residents, easier access to naturalization. It gives certain immigration benefits to their immediate family members in the event of their death. It would amend immigration laws: to allow lawful permanent resident military personnel to naturalize after serving 2 years in the military. They can participate in naturalization interviews and oath ceremonies abroad at U.S. embassies, consulates, and overseas military installations. Naturalization fees would be waived.

Recruiting needs are immediate in wartime and readiness is essential. As the war in Iraq goes on and our commitment to ending global terrorism continues, more and more of these brave men and women are being called to active duty. Many of them are members of the Selected Reserve—Reserve and National Guard members subject to recall to active duty during a war or other national emergency. Many reservists have already been activated, and many more expect to be called up at a moment's notice to defend our country and assist in the war effort. They too deserve special recognition for their bravery and sacrifice. Our bill does just that. Lawful permanent residents who are members of the Selected Reserve will have naturalization benefits similar to those conferred on members of the regular forces on duty. They will have expedited naturalization during times of war or hostile military operations.

Finally, our bill will protect the immigration status of immediate family members who were dependent upon their citizen or noncitizen's relative, if the relative was honorably serving in the military and was killed as a result of the service. We know the tragic losses endured by these families for the sacrifices their sons and daughters have made. It is unfair that they should have to lose their immigration status as well.

Our legislation will amend the immigration laws to ensure that grieving immediate family members are given the opportunity to legalize their immigration status and not be threatened with deportation. Specifically, these family members—noncitizen spouses, children, parents of citizens and parents of noncitizens serving in the military who are killed as a result of their service—will be able to file or preserve their application for lawful permanent residence.

The Naturalization and Family Protection for Military Members Act is a tribute to the sacrifices that these future Americans are already making now for their adopted country. They deserve this important benefit, and we urge the Senate to approve it.

Mr. DURBIN. Mr. President, the American people are united in support of our service members, many of whom are serving today in Iraq, Afghanistan, and elsewhere abroad. We have the finest Armed Forces in the world, and we have asked them to bear a heavy burden. The Senate has justly expressed our support for the troops, but we have an obligation to do more than just pass resolutions. We have to back up our words with actions.

That is why I recently introduced an amendment, which the Senate unanimously approved, to raise combat pay and increase family support for our service members. That is why I joined several of my distinguished colleagues today in introducing a bill that would help immigrant soldiers and their families. The Naturalization and Family Protection for Military Members Act of 2003 would expedite naturalization for legal permanent residents in the military and preserve the rights of noncitizen family members of deceased service members.

There are over 37,000 legal permanent residents on active duty and over 20,000 on reserve duty. These brave men and women have willingly put themselves in harm's way to defend our country. They are living proof that immigration is good for our country.

On the battlefield, there is no distinction between American citizens and noncitizens—everyone is an American service member sworn to defend our Nation. We owe a debt of gratitude to all service members, whether citizen or noncitizen, who have put their lives on the line to keep us all safe and free.

But legal resident service members, who have voluntarily taken on a burden that many Americans will never know, face unnecessary hurdles on the path to citizenship. Even more tragically, if, God forbid, they are killed in combat, the law can prevent their immediate family members from naturalizing. This is a cruel and unjust manner in which to treat the families of legal immigrants who gave their lives for our country.

The sacrifices of these immigrant service members are a poignant reminder that too often our immigration law treats immigrants callously and unfairly, ignoring the tremendous contributions that they make to American society. While preserving the integrity of our naturalization process, we should do everything we can to correct legal technicalities that make it difficult for immigrant soldiers to become citizens and prevent their surviving family member from naturalizing.

It is important to note that this bill would not in any way compromise the naturalization process or national security. It would not automatically confer citizenship. Service members and their families would still be required to petition for naturalization, at which time they would be subjected to a full background check.

For legal permanent residents in military service, the bill would reduce the required period of military service to apply for naturalization during peacetime from 3 years to 2 years. The bill would also allow them to naturalize overseas, and waive the filing fee for their naturalization applications. For service members who are posted overseas for long periods and are struggling to make ends meet, these provisions are vitally important.

Currently, immediate family members of service members who are killed in the line of duty lose their right to file for citizenship. It is wrong and unjust to penalize people because their spouse, parent, or child made the ultimate sacrifice for our country. The bill would preserve the rights to petition for citizenship of noncitizen spouses, unmarried children, and parents of citizen soldiers who are killed as a result of such service.

Passing this bill is the least that we can do to honor and support the brave immigrant men and women who are serving our country during these dangerous times. I urge the Senate to approve it.

Mr. BROWNBACK. Mr. President, I am pleased to join Senator KENNEDY today in introducing legislation to honor the contributions of immigrants who have shown their dedication both to this country and to creating a better future for themselves by joining the military. The Naturalization and Family Protection for Military Members Act of 2003 will do two important things: it will offer easier access to naturalization for immigrant men and women of our Armed Forces, and it will establish immigration protections for their families if they are killed in action.

In this time of war, it is especially important to recognize those who are fighting as we speak to preserve our freedom and our way of life. This is particularly true for those immigrants who have too often given their lives to defend our principles. In fact, after just 2½ weeks of our current conflict, of the 71 U.S. service members killed, seven missing and seven captured, eight of those killed, two of the missing, and two of the captured are immigrants. Most important, only four of the immigrants were U.S. citizens when the war began.

There are more than 30,000 noncitizens on active duty in the U.S. military—approximately 2 percent of the total U.S. forces. In the Reserves and the National guard are another 20,000 noncitizens. These immigrants have proven a dedication to our country by joining the military or the Reserves or National Guard, a dedication which should be recognized and rewarded.

The bill we are introducing will do that. First, it provides easier access to naturalization to members of the armed service who are already lawful permanent residents. Currently, being a member of the armed service allows a permanent legal resident to reduce their wait time for naturalization from 5 years to 3 years—our legislation would reduce the time to only 2 years. It would also ease this process by allowing naturalization interviews and oath ceremonies abroad at U.S. embassies, consulates, and overseas military installations, and by waiving naturalization fees.

In addition, the bill provides for the immediate families of immigrant service personnel killed in action by either giving them the opportunity to legalize their immigration status or by allowing them to proceed with their own applications for naturalization as if the death had not happened. By protecting their immigration status, this element provides critical acknowledgment of the sacrifices that the families of our military members make as well.

Finally, the bill also remembers those courageous men and women who ensure that in times of war or hostility, our country is ready and our recruiting needs are met. While we have seen success in Iraq in recent days, this war is not yet over—in fact, we have truly only reached the beginning of the end, not the end. As such, we must keep in mind that more and more Reserve and National Guard units are being called to active duty. Therefore, we have not forgotten the bravery of those who have immigrated and filled our ranks. Our legislation says that naturalization benefits similar to those conferred on members of the regular forces on duty will also apply to lawful permanent residents who are members of the Reserves or National Guard. In other words, they will have expedited naturalization during times of war or hostile military operations.

This Nation has long reserved the Congressional Medal of Honor for those select war heroes of unsurpassed courage. It is our highest honor and our greatest praise—and one out of every five recipients of this honor have been immigrants. This accounting of the bravery and spirit of the immigrants in our Armed Forces speaks to the fact that they are as dedicated and as willing to sacrifice on our Nation's behalf.

The Naturalization and Family Protection for Military Members Act is an important piece of legislation that both honors and rewards immigrants to this Nation. They are already legal permanent residents—this simply ensures that they have the opportunity to truly become a part of this country through citizenship. I urge the Senate to give its full consideration to this bill and to lend its support.

By Mr. KENNEDY (for himself, Mr. SMITH, Mr. DASCHLE, Mrs. CLINTON, Mr. REED, Mr. DURBIN, Mr. SARBANES, Mr. BINGAMAN, Mr. ROCKEFELLER, Mr. DODD, Mr. LEVIN, Mrs. MURRAY, Mr. HARKIN, Ms. MIKULSKI, Ms. CANTWELL, and Mr. SCHUMER):

S. 923. A bill to provide for additional weeks of temporary extended unemployment compensation, to provide for a program of temporary enhanced regular unemployment compensation, and for other purposes; to the Committee on Finance.

Mr. KENNEDY. The economy continues to falter. Hundreds of thousands of hard-working men and women have lost their jobs, and consumer confidence is the lowest in 9 years. Americans are suffering. College graduates can't find jobs. Americans who have worked all their lives are out of work. Their unemployment benefits are running out. They are losing their savings, and watching their 401(k) plans plummet. They are being forced to take desperate measures—selling their homes, moving back in with their parents, or cashing in their retirement savings.

Our first domestic priority should be to get America back to work. Democrats have a plan to do just that. The Senate Democratic proposal for economic growth will create more than 1 million jobs next year, three times as many as President Bush's plan. It will provide fiscal relief to states to avoid further lay-offs and make vital investments in the economy to achieve growth.

But out-of-work Americans also need help and they need it now. The Economic Security Act I am introducing today will extend temporary Federal unemployment benefits for 6 months past the May expiration date. It will provide additional weeks of benefits as in past recessions and provide extended benefits to the more than 1 million Americans who have run out of benefits but still cannot find work. It will also give states the option to use Federal funds to extend coverage to part-time workers and low-wage workers. This bill will help more than 4 million workers, including 150,000 in Massachusetts.

The unemployment rate remains high at 5.8 percent, with 8.4 million Americans out of work, and those numbers don't include discouraged workers, who have dropped out of the labor force, or those working part-time because they can't find a full-time job. When these workers are included, the true unemployment rate is 10.4 percent.

Over the last two months, the economy has lost nearly half a million jobs. More than 330,000 jobs have been lost in Massachusetts, including 20,000 in Boston and 23,000 in Worcester. Such severe, persistent loss of jobs 2 years after the beginning of a recession is unheard of since the Great Depression.

Richard Wilcox of Canton, MA has taken to standing on a street corner holding up a sign that says ''I need a job . . . 36 years experience: Insurance/Management.'' Thirty-six years of experience, and he has had only two interviews after a year of sending out hundreds of resumes.

Mr. Wilcox is not alone. The crisis in our labor market has continued to worsen under the current administration's watch. Two and a half million more Americans have lost their jobs since the Bush administration took office, and the number of long-term unemployed has nearly tripled.

The economy is still not showing clear signs of recovery, and the number of unemployed continues to grow. The administration's own budget predicts an average of 5.7 percent unemployment for this year. The Congressional Budget Office estimates that it will be 5.9 percent.

In this bleak condition, unemployed workers deserve to be able to count on a further extension of benefits when the current one expires at the end of May. In the last recession, we enacted an extension of benefits five times with overwhelming bipartisan support. Now as then, out-of-work Americans need our help.

In the last recession we also made sure that workers who ran out of Federal benefits but still could not find work were not left in the cold. Today, one in five unemployed workers has been out of work for more than 6 months. One million of these long-term unemployed are without jobs and without any safety net. With three unemployed workers vying for every job, workers across the county are losing hope.

The current unemployment insurance system clearly needs to be modernized to cover today's workers. Two glaring defects stand out. In 1975, 75 percent of unemployed workers were eligible for unemployment benefits, compared to only half of such workers last year. Many of the unemployed who fail to receive benefits are part-time and low-wage workers. Only eight States provide benefits to unemployed residents seeking part-time work on the same basis as the benefits they provide to full-time workers. In addition, in all but a handful of States, low-wage workers are ineligible for benefits because their most recent earnings are not counted. Part-time and low-wage workers pay into the system, and they should be able to rely on it while searching for a new job.

We must pass another extension of unemployment benefits before the current one expires at the end of May. We must not allow a repeat of last year, when Democrats asked eight times for an extension and eight times were told no. Ultimately, we were able to work on a bipartisan basis to provide benefits for out-of-work Americans, and I hope we can do so again this time. I look forward to working with my colleagues to see that Americans here at home who've been hit by these troubled economic times receive the support they need and deserve.

Mr. SARBANES. Mr. President, I rise today in support of The Unemployment Benefits Extension Act of which I am a proud cosponsor. The purpose of this bill is to extend the Temporary Extended Unemployment Compensation, TEUC, program, for an additional 6 months through the end of November. Currently, extended umeployment insurance benefits are scheduled to expire at the end of May. Beginning June first, individuals whose regular unemployment benefits expire will no longer be eligible for extended benefits.

Extending the existing unemployment insurance benefits program for an additional 6 months is estimated to provide assistance to between 2 to 2.5 million working Americans who have lost their jobs through no fault of their own. This legislation also provides an additional 13 weeks of benefits to unemployed workers who have already exhausted their extended benefits prior to enactment and remain unable to find work. The bill also provides tempory Federal funding, through July 2004, for States to implement alternative base periods, which could a worker's most recent wages when determining eligibility, and to allow displaced part-income workers to seek part-time employment while receiving unemployment insurance workers. Improving the unemployment insurance system for part-time workers is important. A recent op-ed in the Baltimore Sun makes the point that:

> The old rationale for excluding part-time workers from unemployment insurance eligibility was that part-time workers were not working to support their families. But this is not true today.

I am convinced that we are going to still be in very difficult shape when the current extension of unemployment insurance benefits expires at the end of May. There is little chance that the labor market will significantly improve for unemployed workers between now and then. There is growing evidence that the labor market is still in fact deteriorating. The Federal Open Markets Committee's most recent statement on interest rates concluded that, ''recent labor market indicators have proven disappointing.''

That is an understatement. Last month the economy lost 108,000 jobs in addition to losing 357,000 jobs in February. There are 1.8 million workers who have been out of work for more than 26 weeks and are looking for work but cannot find a job. The unemployment rate at 5.8 percent is higher today than when extended benefits were first enacted in March, 2002. Over 3.48 million Americans are currently drawing unemployment benefits. We have lost 2.6 million private sector jobs since President Bush took office. No President in over 50 years has failed to create jobs during a 4-year term in office, let alone lose jobs during an administration. But it would take private sector job creation of over 100,000 per month, every month, for the next 2 years, in order for the economy to dig out of the jobs deficit created during this administration.

Yet instead of abandoning the economic policies which have failed, the administration continues to pursue the same fundamental policy—large tax cuts which primarily benefit the wealthiest Americans. The administration, whose budget contained nothing to further extend the unemployment benefits program, remains out of touch with today's economic realities. Over 8.5 million Americans are unemployed and looking for work but cannot find a job because there are no jobs to be had. In situations like this the Congress has always provided extended unemployment benefits. In the last recession these benefits were provided for 29 months. During the recession before that, they lasted for 33 months. In both of those recessions extended benefits were discontinued only after a pronounced strengthening in the labor market.

Today these benefits are set to expire after only 15 months, well before the labor market has improved. If this happens it will mark not only a departure from prudent fiscal policy that has been implemented in a bipartisan fashion in the past but will also harm economic growth and hurt millions of Americans. Extended unemployment insurance benefits, already enacted by the Congress, have assisted 4.7 million workers and provided $12 billion of stimulus into the economy. Federal Reserve Chairman Greenspan has testified that, ''extended unemployment insurance provided a timely boost to disposable income.''

This legislation also allows for all Americans who qualify to receive an additional 13 weeks of benefits. This would include the 1 million workers who have already exhausted their extended benefits. These workers need help. They want to find work but cannot find a job because there are simply no jobs to be had.

I know that some of my colleagues oppose providing extended benefits for more than 13 weeks to anyone. I have a differing viewpoint. I point out that at this stage of the last recession, a minimum of 20 weeks of additional Federal benefits were provided for all Americans in every State. In the previous recession and jobless recovery extended unemployment insurance benefits lasted for 29 months and for much of that time provided benefits for 26 to 33 weeks. In this recession and jobless recovery, benefits are scheduled to expire only after 15 months and have provided only 13 weeks of extended benefits to the vast majority of Americans.

Under normal circumstances with a growing labor market there is a case to be made that providing too long of a duration of unemployment insurance benefits would be harmful. However, in times when the labor market is weak and the job base is shrinking, the situation is very different. Even Fed Chairman Greenspan acknowledged this in testimony before the Joint Economic Committee, stating: ''in periods like this [a shrinking labor market], that the economic restraints on the unemployment insurance system almost surely ought to be eased.'' Unfortunately, many are forecasting continued weaknesses in the labor market.

Today's Washington Post reports that the International Monetary Fund is forecasting economic growth of only 2.2 percent for the United States in 2003, which the IMF's chief economist, Kenneth Rogoff noted is ''not yet enough to make a meaningful dent in unemployment.'' The article goes on to state that: ''the jobless rate stood last month at 5.8 percent, and the IMF projected that it will average 6.2 percent this year.'' Considering the weak labor market that we face today and the troubling forecasts for the remainder of the year, it appears to me that we most certainly are in such a period as described by Chairman Greenspan and that the restraints on the unemployment insurance system ought to be eased. This legislation accomplishes this goal in a fiscally responsible manner with an estimated cost of $16 billion, which is below the unemployment insurance trust funds current surplus of $20 billion.

Last year this issue was not properly dealt with, and as a result millions of Americans suffered through the holiday season believing that their benefits were going to expire. Yet when Congress reconvened, extended benefits were retroactively restored, 11 days after they had expired. Let's not put these people through this again. I urge my colleagues to support this legislation and to work expeditiously and prudently to enact it before the current program expires, less than 8 weeks from today.

By Ms. MURKOWSKI:

S. 924. A bill to authorize the exchange of lands between an Alaska Native Village Corporation and the Department of the Interior, and for other purposes; to the Committee on Energy and Natural Resources.

Ms. MURKOWSKI. Mr. President, I come to the floor today to speak about a small community in the southwestern part of my State of Alaska.

Newtok, a Village with about 300 Yupik Alaska Native residents, is located in the Yukon-Kuskokwim Delta near the Ninglick River. Erosion from the Ninglick is slowly threatening Newtok, and the Village will be under water in less than a decade and the Village airstrip in less time. Once the Village airstrip—Newtok's only connection with the outside world—is flooded, the Village will not be able to survive.

The Village is surrounded by land owned by the Federal Government in the Yukon Delta Wildlife Refuge. In 1997 the Newtok Native Corporation attempted to exchange land on higher ground with the Fish and Wildlife Service, administratively, but these negotiations failed. Therefore, action by Congress is required to ensure the future of Newtok and its residents.

Today I am introducing legislation to begin the process of moving Newtok to a location that is not threatened by erosion or flooding. The Newtok Native Corporation has identified a 10,943 acre tract of land on Nelson Island for the location of the new Village. Newtok Native Corporation is willing to accept this land in the Yukon Delta Wildlife Refuge from the Fish and Wildlife Service in exchange for a 996 acre piece of land on Baird Inlet Island and another 11,105 acre plot northeast of the present location of Newtok.

The Fish and Wildlife Service desires the Newtok owned land for ecological reasons and Newtok needs the Federal land because of its geology that keeps it safe from erosion. Both parties win in this exchange; the Federal Government improves the Yukon Delta Wildlife Refuge for the benefit of the American people, and villagers of Newtok have the opportunity to move to a safe location and see that their culture and community endure.

Newtok needs to be moved before it is too late, and my bill is an important first step in the process of protecting this community.

I ask unanimous consent that the text of the bill be printed in the RECORD.

S. 924

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

Congress finds that:

(1) The continued existence of the village of Newtok, Alaska is threatened by the eroding banks of the Ninglick River.

(2) A relocation of the village will become necessary for the health and safety of the residents of Newtok within the next 8 years.

(3) Lands previously conveyed to the Newtok Native Corporation contain habitat of high value for waterfowl.

(4) An opportunity exists for an exchange of lands between the Newtok Native Corporation and the Yukon Delta National Wildlife Refuge that would address the relocation needs of the village while enhancing the quality of waterfowl habitat within the boundaries of the Refuge.

(5) An exchange of lands between Newtok and the United States on an other than equal value basis pursuant to the terms of this Act is in the public interest.

SEC. 2. DEFINITIONS.

For the purposes of this Act, the term—

(1) ''ANCSA'' means the Alaska Native Claims Settlement Act of 1971 (43 U.S.C. 1601 et seq.);

(2) ''ANILCA'' means the Alaska National Interest Lands Conservation Act of 1980 (16 USC 410hh–3233, 43 USC 1602 et seq.);

(3) ''Calista'' means the Calista Corporation, an Alaska Native Regional Corporation established pursuant to ANCSA;

(4) ''Identified Lands'' means approximately 10,943 acres of lands (including surface and subsurface) designated as ''Proposed Village Site'' upon a map entitled ''Proposed Newtok Exchange,'' dated September, 2002, and available for inspection in the Anchorage office of the United States Fish and Wildlife Service;

(5) ''limited warranty deed'' means a warranty deed which is, with respect to its warranties, limited to that portion of the chain of title from the moment of conveyance from the United States to Newtok to and including the moment at which such title is validly reconveyed to the United States of America and its assigns;

(6) ''Newtok'' means the Newtok Native Corporation, an Alaska Native Village Corporation established pursuant to ANCSA;

(7) ''Newtok lands'' means approximately 12,101 acres of surface estate comprising conveyed lands and selected lands identified as Aknerkochik on the map referred to in paragraph (4) and that surface estate selected by Newtok on Baird Inlet Island as shown on said map; and

(8) ''Secretary'' means the Secretary of the Interior.

SEC. 3. LANDS TO BE EXCHANGED.

(a) LANDS EXCHANGED TO THE UNITED STATES.—If, within 180 days after the date of enactment of this Act, Newtok expresses to the Secretary in writing its intent to enter into a land exchange with the United States, the Secretary shall accept from Newtok a valid, unencumbered conveyance, by limited warranty deed, of the Newtok lands previously conveyed to Newtok. The Secretary shall also accept from Newtok a relinquishment of irrevocable prioritized selections for approximately 4,956 acres for those validly selected lands not yet conveyed to Newtok. The reconveyance of lands by Newtok to the United States and the prioritized, relinquished selections shall be 1.1 times the number of acres conveyed to Newtok under this Act. The number of acres reconveyed to the United States and the prioritized, relinquished selections shall be charged to the entitlement of Newtok.

(b) LANDS EXCHANGED TO NEWTOK.—In exchange for the Newtok lands conveyed and selections relinquished under subsection (a), the Secretary shall, subject to valid existing rights and notwithstanding section 14(f) of ANCSA, convey to Newtok the surface and subsurface estate of the Identified Lands. The conveyance shall be by interim conveyance. Subsequent to the interim conveyance, the Secretary shall survey the Identified Lands at no cost to Newtok and issue a patent to the Identified Lands subject to the provisions of ANCSA and this Act. At the time of survey the charge against Newtok's entitlement for acres conveyed or irrevocable priorities relinquished by Newtok may be adjusted to conform to the standard of 1.1 acres relinquished by Newtok for each one acre received.

SEC. 4. CONVEYANCE.

(a) TIMING.—The Secretary shall issue interim conveyances pursuant to subsection 3(b) at the earliest possible time after acceptance of the Newtok conveyance and relinquishment of selections under subsection 3(a).

(b) RELATIONSHIP TO ANCSA.—Lands conveyed to Newtok under this Act shall be deemed to have been conveyed under the provisions of ANCSA, except that the provisions of 14(c) of ANCSA shall not apply to these lands, and to the extent that section 22(g) of ANCSA would otherwise be applicable to these lands, the provisions of 22(g) of ANCSA shall also not apply to these lands. Consistent with section 103(c) of ANILCA, these lands shall not be deemed to be included as a portion of the Yukon National Wildlife Refuge and shall not be subject to regulations applicable solely to public lands within this Conservation System Unit.

(c) EFFECT ON ENTITLEMENT.—Nothing in this Act shall be construed to change the total acreage of land to which Newtok is entitled under ANCSA.

(d) EFFECT ON NEWTOK LANDS.—The Newtok Lands shall be included in the Yukon Delta National Wildlife Refuge as of the date of acceptance of the conveyance of those lands from Newtok, except that residents of the Village of Newtok, Alaska, shall retain access rights to subsistence resources on those public lands as guaranteed under ANILCA section 811 (16 U.S.C. 3121), and to subsistence uses, such as traditional subsistence fishing, hunting and gathering, consistent with ANILCA section 803 (16 U.S.C. 3113).

(e) ADJUSTMENT TO CALISTA CORPORATION ANCSA ENTITLEMENT FOR RELINQUISHED NEWTOK SELECTIONS.—To the extent that Calista subsurface rights are affected by this Act, Calista shall be entitled to an equivalent acreage of in-lieu subsurface entitlement for the Newtok selections relinquished in the exchange as set forth in subsection 3(a) of this Act. This additional entitlement shall come from subsurface lands already selected by Calista, but which have not been conveyed. If Calista does not have sufficient subsurface selections to accommodate this additional entitlement, Calista Corporation is hereby authorized to make an additional in lieu selection for the deficient acreage.

(f) ADJUSTMENT TO EXCHANGE.—If requested by Newtok, the Secretary is authorized to consider and make adjustments to the original exchange to meet the purposes of this Act, subject to all the same terms and conditions of this Act.

By Mr. SARBANES (for himself and Ms. MIKULSKI):

S.J. Res. 12. A joint resolution recognizing the Dr. Samuel D. Harris National Museum of Dentistry located at 31 South Greene Street in Baltimore, Maryland, as the official national museum of dentistry in the United States; to the Committee on Rules and Administration.

Mr. SARBANES. Mr. President, today I am introducing legislation, together with Senator MIKULSKI, to recognize the Dr. Samuel D. Harris National Museum of Dentistry, in Baltimore, as the official national museum of dentistry in the United States.

The principal purpose of this legislation is to help educate the public about the critical importance of oral health to the overall health of all Americans. Three years ago, United States Surgeon General David Satcher issued a comprehensive report entitled ''Oral Health in America,'' which identified the problem of dental and oral disease as a ''silent epidemic'' facing the country. The report found that tooth decay is the most common chronic childhood disease, which often interferes with vital functions such as eating, swallowing, and speech. Children around the country miss an estimated 51 million hours of school each year due to dental illness. Despite Federal law mandating that children eligible for Medicaid be given access to dental services, fewer than one in five of these children actually receive dental care. In addition, close to one in four Americans between the ages of 65 and 74 were found to suffer from periodontal disease, and over 8,000 men and women die from oral and pharyngeal cancers each year.

The report called for the development of a National Oral Health Plan, and recommended that actions be taken to ''change perceptions regarding oral health and disease so that oral health becomes an accepted component of general health.'' By designating an official national museum and learning center dedicated to dentistry, this legislation takes an important step toward the achievement of this goal.

The Dr. Samuel D. Harris National museum of Dentistry is the largest and most comprehensive museum of dentistry in this country, and, indeed, the world. An affiliate of the Smithsonian Institution, the Museum sits on the grounds of the Baltimore College of Dental Surgery, founded in 1840 as the world's first dental college. Many of the museum's permanent exhibits come directly from the College's vast historical collections. Housed in a building that served as the University of Maryland Dental Department from 1904 to 1929, the Museum is located directly adjacent to historic Davidge Hall, the Western Hemisphere's oldest medical building in continuous use.

In 1992, a retired pediatric dentist, Dr. Samuel D. Harris of Detroit, contributed $1 million of his personal funds toward the development of the Museum. He has since made further considerable gifts to the Museum's endowment, reaffirming his belief that education is the hallmark of preventive oral care. The Museum's name honors both his generosity and his mission.

With over 7,000 square feet of exhibit space, the Museum showcases the people, objects, and events that created and defined the dental profession, including one of George Washington's famed ivory dentures. The Museum's vast archives also act as an important resource for research and serious academic study of dentistry's past, with a unique collection of historical dental journals and other one-of-a-kind documents. Included in these collections are the first known dental degree and dental license.

While its informative presentation of dentistry's history constitutes an important part of the Museum's exhibitions, its mission extends much further, with the ultimate goal of educating the public about the critical importance of oral health. The Museum's interactive exhibits make it particularly effective in this regard, and over 26,000 students have benefited from the Museum's vigorous educational programs since its opening in 1996.

By designating the Samuel D. Harris National Museum of Dentistry as the official national museum of dentistry, we will not only recognize the critical role that dentists and oral health professionals have played in the history of our Nation's health care system, but enhance awareness and understanding of the importance of dentistry to public health.

The Samuel D. Harris National Museum of Dentistry has been endorsed by the American Dental Association, the American Association of Dental Schools, Oral Health America, the Pierre Fauchard Academy, the American College of Dentists, the International College of Dentists, and the American Academy of the History of Dentistry. I ask unanimous consent that the text of a letter from the American Dental Association in support of this legislation be printed in the RECORD.

I urge my colleagues to support this legislation.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AMERICAN DENTAL ASSOCIATION
Washington, DC, March 12, 2003.

Hon. PAUL SARBANES,
U.S. Senate, Washington, DC.

DEAR SENATOR SARBANES: On behalf of the 147,000 members of the American Dental Association, we write to express our strong support for your resolution to recognize the Dr. Samuel D. Harris National Museum of Dentistry, located in Baltimore, Maryland, as the official national museum of dentistry in the United States.

As the most comprehensive dental museum in the world, it is a national and international resource whose primary mission is to educate people, especially children, about the history of dentistry and the importance of good oral hygiene. The museum uses state-of-the-art, interactive exhibitions and expert presentations to deliver the message that oral health is important to achieve overall health. Currently, the museum is displaying an exhibit entitled, ''The Future is Now! African Americans in Dentistry.''

The museum is affiliated with the University of Maryland at Baltimore, home of the world's first dental school, founded in 1840. it contains hundreds of interesting and significant dental artifacts, not the least of which is George Washington's dentures. It also serves as a national center of learning with an extensive library from which scholars may study the evolution of dental treatment and learn of the numerous accomplishments of the dental profession over the years.

The museum is endorsed by the American Dental Association, National Dental Association, American Dental Education Association, American College of Dentists, International College of Dentists, and the American Academy of the History of Dentistry among others.

Thank you for recognizing the museum, which is truly a national treasure.

Sincerely,

T. HOWARD JONES, D.M.D.,
President.
JAMES B. BRAMSON, D.D.S.,
Executive Director.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 121—HONORING THE LIFE OF WASHINGTON POST COLUMNIST AND ATLANTIC MONTHLY EDITOR MICHAEL KELLY, AND EXPRESSING THE DEEPEST CONDOLENCES OF THE SENATE TO HIS FAMILY ON HIS DEATH

Mr. MCCONNELL submitted the following resolution; which was considered and agreed to:

S. RES. 121

Whereas the Senate has learned with sadness of the death of columnist and editor Michael Kelly;

Whereas Michael Kelly, a native of Washington, D.C., greatly distinguished himself as a newspaper reporter, political columnist, writer, and magazine editor;

Whereas Michael Kelly was embedded with the Third Infantry Division of the United States Army in Iraq to record history from the perspective of the soldiers on the field of battle;

Whereas Michael Kelly distinguished himself early in his career as a reporter for the Cincinnati Post, Baltimore Sun, New York Times, and the New Yorker;

Whereas Michael Kelly served as editor of the National Journal and New Republic;

Whereas Michael Kelly was most recently a columnist for the Washington Post and the editor of the Atlantic Monthly, which under his stewardship was awarded three National Magazine Awards last year;

Whereas Michael Kelly's political columns represent a major contribution to American political discourse;

Whereas Michael Kelly's reporting during the Persian Gulf War of 1991 was published as a book entitled ''Martyr's Day'';

Whereas Michael Kelly was a devoted husband to his wife, Madelyn, a proud father to his sons, Tom and Jack, and a dutiful son to his parents, Thomas and Marguerite Kelly; and

Whereas Michael Kelly's wit, acumen, intellect, patriotism, and passion will be forever remembered by his friends, colleagues, and the countless strangers whose lives he touched with his powerful writings: Now, therefore, be it

Resolved, That the Senate—

(1) pays tribute to the outstanding career and memorable writings of Michael Kelly;

(2) expresses its deepest condolences to his family; and

(3) directs the Secretary of the Senate to direct an enrolled copy of this resolution to the family of Michael Kelly.

SENATE CONCURRENT RESOLUTION 36—EXPRESSING THE SENSE OF THE CONGRESS REGARDING THE BLUE STAR SERVICE BANNER AND THE GOLD STAR

Mr. DASCHLE (for himself, Mr. HAGEL, Mr. JOHNSON, Mr. FRIST, Mr. KERRY, Mr. STEVENS, Mr. GRASSLEY, Mr. BOND, Mr. MCCAIN, Mr. REID, and Mr. ROCKEFELLER) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 36

Whereas the Blue Star Service Banner was patented and designed in 1917, during the height of the First World War, by Army Captain Robert L. Queissner of the 5th Ohio Infantry, who had two sons serving on the front lines;

Whereas the banner quickly became the symbol for a family member serving the Nation and families began proudly displaying these banners in their front windows during the First World War;

Whereas each Blue Star on the banner represents a family member serving in the Armed Services and symbolizes hope and pride;

Whereas beginning in 1918, the Blue Star would signify the living, and a smaller Gold Star would be placed on top of the Blue Star, forming a blue border, if the family member was killed or died while on active duty, to symbolize his or her sacrifice for the cause of freedom;

Whereas the placement of a Gold Star on top of a Blue Star recognizes that those who served together and came home, as well as their families, will always remember the sacrifice of those who died and honor their families;

Whereas the banners were displayed widely during the Second World War;

Whereas many of the banners displayed during the First and Second World Wars were hand-made by the mothers of those serving in the Armed Forces;

Whereas the legacy of the banner continued during the Korean, Vietnam, and Persian Gulf Wars and other periods of conflict, as well as in times of peace;

Whereas the Blue Star Service Banner is the official banner authorized by law to be displayed in honor of a family member serving the United States, while the Gold Star may be displayed in honor of a family member who has made the ultimate sacrifice for the Nation;

Whereas for over 85 years, families have proudly displayed the Blue Star Service Banner showing service men and women the honor and pride that is taken in their sacrifices for freedom;

Whereas the banner may be displayed by members of the immediate family of a loved one serving in the Armed Forces, including active duty service in a unit of the National Guard, Merchant Marine, or the Reserves;

Whereas the banner may be flown by families with a service member stationed either domestically or overseas;

Whereas the display of the banner in the front window of a home shows a family's pride in their loved one and is a reminder that preserving America's freedom demands great sacrifice; and

Whereas this reminder is especially timely during the current conflict with Iraq and the war on terrorism: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) calls on all Americans to honor the men and women of the United States Armed Forces and their families;

(2) honors the men and women of the United States Armed Forces and their families;

(3) encourages these families to proudly display the Blue Star Service Banner or, if their loved one has made the ultimate sacrifice, the Gold Star; and

(4) calls on the media to recognize the importance of the Blue Star Service Banner and its symbolism of the devotion and service of the men and women of the United States Armed Forces.

SEC. 2. The authority on which this resolution rests is the authority of Congress to make all laws which shall be necessary and proper as provided in Article I, section 8 of the United States Constitution.

SENATE CONCURRENT RESOLUTION 37—EXPRESSING SUPPORT FOR THE CELEBRATION OF PATRIOT'S DAY AND HONORING THE NATION'S FIRST PATRIOTS

Mr. KENNEDY (for himself and Mr. KERRY) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 37

Whereas on the evening of April 18, 1775, Paul Revere was sent for by Dr. Joseph Warren and instructed to ride to Lexington, Massachusetts, to warn Samuel Adams and John Hancock that British troops were marching to arrest them;

Whereas after leaving Charlestown on his way to Lexington, Paul Revere alerted the inhabitants of villages and towns along his route, stopping in Medford (formerly Mystic) at the home of Isaac Hall, the captain of the Medford Minutemen during the Revolutionary War, before continuing on through Arlington (formerly Menotomy) and arriving in Lexington around midnight;

Whereas William Dawes and a third rider, Dr. Samuel Prescott joined Paul Revere on his mission and they proceeded together on horseback to Lincoln;

Whereas while en route they encountered a British patrol that arrested Paul Revere, but William Dawes and Samuel Prescott managed to escape and continued on to Concord where weapons and supplies were hidden;

Whereas the midnight ride of Paul Revere was brilliantly and forever commemorated by the great American poet Henry Wadsworth Longfellow in his 1861 poem ''Paul Revere's Ride'';

Whereas the actions taken by Paul Revere, William Dawes, and Samuel Prescott afforded the Minutemen time to assemble to confront the advancing British troops and were heralded as one of the first great acts of patriotism of our Nation;

Whereas 38 Lexington Minutemen boldly stood before 600–800 British troops who had gathered at Lexington Green;

Whereas Captain Parker of the Lexington Minutemen commanded his men, ''Don't fire unless you are fired on; but if they want a war, let it begin here.'';

Whereas when the British continued onto Concord, a battle ensued at the Old North Bridge, where Minutemen from every Middlesex village and town routed the British and forced them into retreat back to Boston;

Whereas Ralph Waldo Emerson immortalized this moment in American history as where ''the embattled farmers stood and fired the shot heard 'round the world.'';

Whereas the United States has recognized the historic significance of the Nation's original patriots with the creation in 1959 of the Minute Man National Historical Park, located in Concord, Lincoln, and Lexington, Massachusetts, to preserve and protect the numerous significant historic sites, structures, properties, and landscapes associated with the opening battles of the American Revolution, and to help visitors understand and interpret the colonial struggle for their rights and freedoms; and

Whereas the heroic acts of April 19, 1775, are celebrated in Massachusetts and Maine every year as part of Patriot's Day with a reenactment of Paul Revere's famous ride, battle reenactments, educational programs, parades, and civic activities, and remembered by Americans across the United States: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) expresses support for the celebration of Patriot's Day;

(2) recognizes the extraordinary dedication to freedom demonstrated by the Nation's first patriots during the earliest days of the Battle for Independence in April 1775; and

(3) honors those first patriots who lost their lives in defense of liberty and freedom.

SENATE CONCURRENT RESOLUTION 38—PROVIDING FOR A CONDITIONAL ADJOURNMENT OR RECESS OF THE SENATE AND A CONDITIONAL ADJOURNMENT OF THE HOUSE OF REPRESENTATIVES

Mr. FRIST submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 38

Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses or adjourns at the close of business on Friday, April 11, 2003, or Saturday, April 12, 2003, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Monday, April 28, 2003, or until such other time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first, and that when the House adjourns on any legislative day from Saturday, April 12, 2003, through Friday, April 18, 2003, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2:00 p.m. on Tuesday, April 29, 2003, or until Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Majority Leader of the Senate and the Speaker of the House, acting jointly after consultation with the Minority Leader of the Senate and the Minority Leader of the House, shall notify the Members of the Senate and House respectively, to reassemble at such place and time as they may designate whenever, in their opinion, the public interest shall warrant it.

AMENDMENTS SUBMITTED & PROPOSED

SA 531. Mr. SUNUNU (for Mr. HATCH) proposed an amendment to the resolution S. Res. 117, recognizing the 100th anniversary of the founding of the Laborers' International Union of North America, and congratulating members and officers of the Laborers' International Union of North America for the union's many achievements.

TEXT OF AMENDMENTS

SA 531. Mr. SUNUNU (for Mr. HATCH) proposed an amendment to the resolution S. Res. 117, recognizing the 100th anniversary of the founding of the Laborers' International Union of North America, and congratulating members and officers of the Laborers' International Union of North America for the union's many achievements; as follows:

Strike all after the resolving clause and insert the following: ''That the Senate—

''(1) recognizes the founding and establishment of labor organizations, which have made a tremendous contribution to the structural development and building of the United States, and to the well-being of countless workers;

''(2) congratulates labor organizations for their many achievements and the strength of their membership; and

''(3) expects that labor organizations will continue their dedicated work and will have an even greater impact in the 21st century and beyond, and will enhance the standard of living and work environment for laborers and other workers in generations to come.''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. NICKLES. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Friday, April 11, 2003, at 10 a.m., in Dirksen Room 226.

I. Nominations: J. Leon Holmes to be U.S. District Judge for the Eastern District of Arkansas; Susan G. Braden to be Judge for the Court of Federal Claims; Charles F. Lettow to be Judge for the Court of Federal Claims; Cecilia M. Altonaga to be United States District Judge for the Southern District of Florida; and Patricia Head Minaldi to be United States District Judge for the Western District of Louisiana

II. Bills: S. 274—Class Action Fairness Act of 2003; S. 731—Secure Authentication Feature and Enhanced Identification Defense Act of 2003 (''SAFE ID ACT''); S. Res. 108—Designating April 21 through 27, 2003, as ''National Cowboy Poetry Week'' [BURNS, HATCH, REID, BROWNBACK]; S. Res. 111—Designating April 30, 2003 as ''Diá de los Niños: Celebrating Young Americans'' [HATCH]; and S.J. Res. 8—A joint resolution expressing the sense of Congress with respect to raising awareness and encouraging prevention of sexual assault in the United States and supporting the goals and ideals of National Sexual Assault Awareness and Prevention Month [BROWNBACK, BIDEN, DEWINE, SCHUMER].

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. HARKIN. I ask unanimous consent for fellow Julianne Carter to have the privilege of the floor for the duration of this debate and when we come back for debate on Jeffrey Sutton.

The PRESIDING OFFICER. Without objection, it is so ordered.

SMALLPOX EMERGENCY PERSONNEL PROTECTION ACT OF 2003

Mr. SUNUNU. Madam President, I ask unanimous consent that the Senate immediately proceed to H.R. 1770, which is being held at the desk.

The PRESIDING OFFICER. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 1770) to provide benefits and other compensation for certain individuals with injuries resulting from administration of smallpox countermeasures, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Madam President, I rise today in strong support of the Smallpox Compensation Act of 2003.

I applaud the leadership of Senator JUDD GREGG, the distinguished Chairman of the Health, Education, Labor, and Pensions Committee. He has done a tremendous benefit for the Nation through this critical legislation when there is such great need to improve our public health preparedness.

I commend Senator EDWARD KENNEDY for his efforts to achieve bipartisan consensus on the smallpox legislation we are considering today. I also thank all of the members of the Senate Health, Education, Labor, and Pensions Committee, and for the work of Representatives BILLY TAUZIN and JOHN DINGELL for their efforts to develop and pass this legislation.

Finally, the President of the United States deserves great credit for working to ensure that America is prepared against the threat of bioterrorism, and that the Nation's healthcare workers, first responders, and their families are protected from adverse affects that may result from smallpox vaccinations. Without President Bush's commitment, we could not have reached this critical agreement.

We know the grave danger that a smallpox attack poses. Smallpox is one of the deadliest diseases known to man. Health experts, the Federal Government, and State and local health entities continue to address the smallpox threat, including the development of a long-term immunization plan.

The administration has taken great steps to meet this threat by setting forth an immunization plan for our Nation's healthcare workers and first responders.

However, too many healthcare workers have been deterred from receiving the smallpox vaccine—in part because of uncertainties about what would happen, and how they would provide for themselves, if they suffered a serious adverse reaction to the vaccine.

This legislation helps to respond to that fear. It makes clear that adequate compensation will be available if an individual becomes ill or dies as a result of receiving the smallpox vaccine.

Passing this legislation will help strengthen President Bush's plan to vaccinate healthcare workers, public health officials and first responders—a vaccination strategy that is vital to our national security.

This legislation is part of a long-term strategy. We must continue to work to ensure appropriate liability and compensation measures for future countermeasures, as well as strong communications, surveillance, capacity-building and research efforts to strengthen our overall public health infrastructure to respond to emerging public health threats.

Indeed, this is not purely a public health issue; it is also an issue of national security. We must ensure that an adequate number of healthcare workers and first responders are vaccinated in order to protect the American people should smallpox be used as an offensive weapon. Dr. Anthony Fauci of the National Institutes of Health, NIH, has noted, in fact, that we would have perhaps only 2–3 days to vaccinate exposed individuals and prevent death in the event of an outbreak. This task would be nearly impossible without having an adequate number of individuals vaccinated prior to an outbreak.

While the risk of a smallpox attack is not necessarily high, the risk is real.

And the results could be devastating. They would surely be even more devastating without having enough people vaccinated before an outbreak. So we need to act here, and we need to act quickly.

In addition, we also must act in the coming weeks to pass the President's Project Bioshield Act of 2003 and legislation to improve our overall vaccine liability system. These are also critical longer term steps in rebuilding our defenses against infectious disease outbreaks, whether naturally-occurring or as a result of the use of offensive use of weapons of mass destruction.

Again, I commend the President, Chairman GREGG, Senator KENNEDY, and all of my colleagues, who have worked to craft this bipartisan legislation. I am very pleased to support this legislation.

Mr. GREGG. Madam President, with a mortality rate of over 30 percent, smallpox was one of the world's most feared diseases until a collaborative global vaccination program eradicated the disease in the 1970s. Smallpox no longer occurs naturally, and today can only be found in laboratories in the United States and Russia. Or so we believe. With the fall of the Soviet Union, some in the intelligence community are concerned that samples of the virus may have found its way to other countries, including Iraq. This is of grave concern to our Nation and the entire global community. Highly contagious and easily dispersed in the air, smallpox virus can be a deadly weapon in terrorist hands.

Congress and the administration have responded to this potential threat by authorizing the purchase of approximately 300 million doses of smallpox vaccine, enough for every man, woman, and child in America. Equally important, the administration developed a plan to respond in the event of an outbreak of the disease. Since the administration launched its smallpox vaccination plan on January 24, 2003, over 30,000 health care workers have been inoculated. To adequately prepare our Nation for the possibility of such an attack, however, more health care providers must be immunized. Additionally, it is critical that we begin vaccinating other emergency personnel, such as law enforcement officers, firefighters, and paramedics.

However, confusion as to the threat posed by the smallpox virus and concerns about the safety and potential side-effects of the vaccine, as well as the availability of compensation for any vaccine-related injuries, have impeded the program's progress. Although severe adverse reactions to the smallpox vaccine are very rare, we must ensure that health care and emergency workers who suffer such reactions receive appropriate medical care and compensation. Moreover, since the smallpox vaccine is made up of a live virus, we must also provide protection to any family members, patients, and others who are accidentally infected by these inoculated workers.

That is why I introduced the Smallpox Emergency Personnel Protection Act of 2003 (S. 313), which I chair. The bill before us reflects the bipartisan agreement that was reached after many weeks of hard work and long discussions with Republicans, Democrats, and the White House on this legislation.

The Smallpox Emergency Personnel Protection Act would create a ''no fault'' system to compensate vaccinated health care and emergency workers injured by the smallpox vaccine and other smallpox countermeasures, including any persons who accidentally contract smallpox from the vaccine. All persons experiencing any adverse events from the smallpox vaccine would be reimbursed for all reasonable necessary medical expenses and be compensated for lost wages.

In the rare event of death, the victim's family would receive a $262,100 lump-sum benefit payment. If there are any surviving children, then the family would have the option of receiving either the lump-sum or a $50,000 annual death benefit payment until the children become 18 years of age.

Those who become permanently and totally disabled as a result of the vaccine could receive up to $50,000 annually in lost wages. Those who are temporarily disabled could receive up to $50,000 annually in lost wages, up to a lifetime total of $262,100. No such lifetime limit would apply in the case of permanent and total disability.

While those harmed by the smallpox vaccine retain the right to sue the federal government for negligence, all vaccine related claims must first go through the compensation program. Finally, the legislation includes some clarifications of section 304 of the Homeland Security Act, to ensure that providers, such as hospitals, doctors, nurses, and public healthcare workers, are protected from personal liability in the administration of the smallpox vaccine and in caring for infected persons.

The Smallpox Emergency Personnel Protection Act is an important element of our national smallpox vaccination program that will help ensure its timely implementation. I do hope that the Secretary of Health and Human Services will carry out the smallpox vaccination program in a manner that appropriately monitors and evaluates newly proposed technologies, devices, and other elements of the program, in order to assure the safest route of administration. To this end, I anticipate that the Secretary will review periodically for possible inclusion under the program new and modified technologies, tasks, and procedures that may reduce the risks and increase the safety of the program and its administration. I understand that the Secretary will continue to engage in dialogue with the affected parties and to ensure the safe and effective administration of the smallpox vaccine.

Our Nation's healthcare and emergency workers will be on the front line in responding to any smallpox attack. Now, more than ever, we need to provide piece-of-mind and security to healthcare and emergency workers who volunteer to be vaccinated. This compensation package will give these workers the confidence they need to proceed with vaccinations. It is imperative that Congress pass the Smallpox Emergency Personnel Protection Act as swiftly as possible, so that we can ensure that our healthcare and emergency workers and their families are protected and that this country is prepared to respond in the event of an attack.

Mr. KENNEDY. Madam President, America faces a crisis because of our lack of preparedness for a bioterrorist attack. For months, we've worked to develop a fair, reasonable package to end this crisis. Today, we can finally say that we have an agreement, and I commend Senator GREGG, Senator FRIST, Senator MIKULSKI and all our colleagues on the Health Committee for all they've done.

I also thank the many representatives of nurses and other health providers, police officers and fire fighters for working with all of us to create a fair compensation program. We have come a long way and we're grateful for their intense commitment to this urgent challenge.

Smallpox is one of the cruelest, most contagious, and deadliest diseases ever known. Modern medicine has eradicated this disease in nature, but unfortunately is has been preserved as a weapon of war. The former Soviet Union weaponized the deadly virus—and control over these dangerous biological materials is often weak. Other nations probably have stocks of the virus—and none of us can be sure that the virus won't find its way into the hands of a terrorist.

If we remain unprepared, an attack with smallpox could kill vast numbers of Americans. Smallpox is deadlier than tanks, or bombs. It is more lethal than machine guns or rocket-propelled grenades. It threatens the security of every American. We can and must protect our country against the use of smallpox as a weapon.

Vaccination provides almost complete protection against the disease—but the protection can come at a high price in some cases. For an unfortunate few, it can cause serious side effects such as encephalitis, blindness or severe infections. Recent deaths after the vaccination of civilian and military personnel have raised concern that the vaccine may cause heart attacks. The number of people who experience these devastating effects is small, so the cost of meeting their needs will not be great. But the failure to meet their needs can be devastating for them, and devastating for the overall preparedness effort.

At long last, after many negotiations, we can now say that the nation's first responders will have an effective compensation program. They deserve it and our nation's security demands it.

The agreement we have reached ensures that those who participate in the vaccination program will receive fair compensation if they suffer side effects from the vaccine. The compensation package is significantly more generous than the original proposal. Workers who are permanently and totally disabled will receive two thirds of their lost wages—three quarters if they have dependents—up to $50,000 a year, with no lifetime cap on those benefits. Workers who are temporarily or partially disabled will receive the same benefit, but with a lifetime cap of $262,100—the same cap as for firefighters and police officers. The children of anyone who dies as a result of vaccination will be eligible for the same benefits as those with permanent and total disability until they reach 18 years of age.

The intent of the bill is that these benefits should be exempt from taxation, as in other worker compensation programs, including the Public Safety Officers Benefit program. The intent is also that these benefits be indexed for inflation.

The benefits in this plan will go further than in the original plan in improving the health of those who are injured. Instead of limiting benefits to medical services and items needed only for immediate treatment of injury, the plan covers a wider range of medical needs including rehabilitative care and palliative care.

Our agreement also takes the important step of extending eligibility for compensation to all workers called upon to receive the vaccine. There are no deadlines to coerce persons into signing up for the program.

Thanks to the effective work of Senator MIKULSKI, the bill now includes strong provisions to make sure that the public has adequate information about the risks of vaccination, the voluntary nature of the program, and the availability of potential benefits and compensation. the bill also ensures voluntary screening for potential participants to identify health conditions that could put them at risk. Medical follow-ups will evaluate adverse health effects, and effective screening and counselling will reduce them.

So far, the vaccination plan is faltering. Only a small fraction of those who we rely on to protect us—the men and women in our hospitals and fire departments and police departments—have been willing to have smallpox vaccinations. They know the risks, and they worry that if they are injured or killed by the vaccine, they and their families will not be compensated adequately.

That is why it is so important to guarantee help for persons no longer able to work as a result of reactions to the smallpox vaccine, and to guarantee that their children have financial security as well.

Under certain circumstances, those who have been vaccinated can spread the virus used in the vaccine to others and cause them to become ill. Recently, concerns about the safety of the vaccine were raised by two heart attack deaths among the 31,000 civilians who have been vaccinated, and one heart attack death among the 300,000 military personnel who have been vaccinated. Five other civilians suffered heart attacks that were not fatal. No one knows whether the heart attacks were the result of the vaccine—but they have added new concern about the vaccination.

This agreement is a major step forward. We still have far more to do to be fully prepared for bioterrorist attacks, but this agreement is a major step forward against what could well be the worst of all terrorist attacks, and I urge the Senate to approve it.

Mr. SUNUNU. Madam President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 1770) was read the third time and passed.

Mr. SUNUNU. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SUNUNU. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. MURKOWSKI). Without objection, it is so ordered.

EXECUTIVE SESSION

NOMINATIONS DISCHARGED

Mr. SUNUNU. Madam President, as in executive session, I ask unanimous consent that the HELP Committee be discharged from further consideration of the following nominations and that the Senate then proceed to their consideration: Thomas Meites, PN 479; Herbert Garten, PN 478; Florentino Subia, PN 75; Frank Strickland, PN 76; Robert Dieter, PN 79; and Michael McKay, PN 77.

I ask unanimous consent that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table, the President be notified of the Senate's action, and that the Senate then resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

LEGAL SERVICES CORPORATION

Thomas R. Meites, of Illinois, to be a Member of the Board of Directors of the Legal Services Corporation for a term expiring July 13, 2004.

Herbert S. Garten, of Maryland, to be a Member of the Board of Directors of the Legal Services Corporation for a term expiring July 13, 2005.

Florentino Subia, of Texas, to be a Member of the Board of Directors of the Legal Services Corporation for a term expiring July 13, 2004.

Frank B. Strickland, of Georgia, to be a Member of the Board of Directors of the Legal Services Corporation for a term expiring July 13, 2004.

Robert J. Dieter, of Colorado, to be a Member of the Board of Directors of the Legal Services Corportion for a term expiring July 13, 2005.

Michael McKay, of Washington, to be a Member of the Board of Directors of the Legal Services Corporation for a term expiring July 13, 2004.

EXECUTIVE CALENDAR

Mr. SUNUNU. Madam President, I ask unanimous consent that the Senate consider the following nominations on today's executive calendar: Calendar Nos. 131, 133, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 148, 149, 150, 151, 152, 153, 154, 155 and 156.

I ask unanimous consent that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table, that the President be immediately notified of the Senate's action and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

VETERANS AFFAIRS

John W. Nicholson, of Virginia, to be Under Secretary of Veterans Affairs for Memorial Affairs.

ARMY

The following named officer for appointments as the Chief of the National Guard Bureau, and for appointment to the grade indicated under title 10, U.S.C., section 10502:

to be Lieutenant General

Maj. Gen. H. Steven Blum, 9926

DEPARTMENT OF STATE

Joseph LeBaron, of Oregon, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Islamic Republic of Mauritania.

Reno L. Harnish, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Azerbaijan.

Heather M. Hodges, of Ohio, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Moldova.

Gregory W. Engle, of Colorado, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Togolese Republic.

Eric S. Edelman, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Turkey.

Wayne E. Neill, of Nevada, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the

United States of America to the Republic of Benin.

Stephen D. Mull, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Lithuania.

Ralph Frank, of Washington, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Croatia.

William M. Bellamy, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Kenya.

Helen R. Meagher La Lime, of Florida, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Mozambique.

Pamela J. H. Slutz, of Texas, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Mongolia.

Stephen M. Young, of New Hampshire, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kyrgyz Republic.

UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY

Jay T. Snyder, of New York, to be a Member of the United States Advisory Commission on Public Diplomacy for a term expiring July 1, 2004.

Harold C. Pachios, of Maine, to be a Member of the United States Advisory Commission on Public Diplomacy for a term expiring July 1, 2005.

Elizabeth F. Bagley, of the District of Columbia, to be a Member of the United States Advisory Commission on Public Diplomacy for a term expiring July 1, 2005.

Marie Sophia Aguirre, of the District of Columbia, to be a Member of the United States Advisory Commission on Public Diplomacy for a term expiring July 1, 2003.

Marie Sophia Aguirre, of the District of Columbia, to be a Member of the United States Advisory Commission on Public Diplomacy for a term expiring July 1, 2006.

Barbara McConnell Barrett, of Arizona, to be a Member of the United States Advisory Commission on Public Diplomacy for a term expiring July 1, 2003.

Barbara McConnell Barrett, of Arizona, to be a Member of the United States Advisory Commission on Public Diplomacy for a term expiring July 1, 2006.

Charles William Evers III, of Florida, to be a Member of the United States Advisory Commission on Public Diplomacy for a term expiring July 1, 2003.

Charles William Evers III, of Florida, to be a Member of the United States Advisory Commission on Public Diplomacy for a term expiring July 1, 2006.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

AMERICAN 5-CENT COIN DESIGN CONTINUITY ACT OF 2003

Mr. SUNUNU. Madam President, I ask unanimous consent that the Banking Committee be discharged from further consideration of H.R. 258 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 258) to ensure continuity for the design of the 5-cent coin, establish the Citizens Coinage Advisory Committee, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. SHELBY. Madam President, I rise today in support of H.R. 258, the Five Cent Coin Design Continuity Act. This legislation will allow the U.S. Mint to move forward with a nickel redesign to commemorate the bicentennial of the Louisiana Purchase and the Lewis and Clark Expedition. The bill will also allow the Mint to observe Thomas Jefferson's 260th birthday and honor his many contributions to the founding of our great Nation. I would like to commend Senators ALLEN and JOHNSON for their support and commitment to this outstanding effort to honor our history.

Thomas Jefferson's visionary decision to make the Louisiana Purchase opened the North American continent to the expansion of the frontier. Lewis and Clark's adventurous spirit provided the example for many brave pioneers to follow as they explored and settled west of the Mississippi. Thomas Jefferson's foresight and the courage of the members of the Lewis and Clark expedition presaged a legendary time in our Nation's history that emboldened the American spirit.

This period in history truly merits commemoration on our nickel coin. It is important to celebrate these accomplishments and recognize the achievements of individuals who have had such an impact on our Nation's history. I am pleased that the Banking Committee and the Senate could move expeditiously to pass this legislation and I thank Senators ALLEN and JOHNSON for their support.

Mr. SUNUNU. Madam President, I ask unanimous consent that the bill be read a third time and passed, that the motion to reconsider be laid upon the table and that any statements pertaining to this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 258) was read the third time and passed.

SUPPORT FOR CELEBRATION OF PATRIOT'S DAY

Mr. SUNUNU. Madam President, I ask unanimous consent that the Senate proceed to consideration of S. Con. Res. 37 which was introduced earlier today by Senators KENNEDY and KERRY.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 37) expressing support for the celebration of Patriot's Day on April 19th and honoring the Nation's first patriots.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. SUNUNU. Madam President, I ask consent that the concurrent resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to this measure be printed in the RECORD at the appropriate place, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 37) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 37

Whereas on the evening of April 18, 1775, Paul Revere was sent for by Dr. Joseph Warren and instructed to ride to Lexington, Massachusetts, to warn Samuel Adams and John Hancock that British troops were marching to arrest them;

Whereas after leaving Charlestown on his way to Lexington, Paul Revere alerted the inhabitants of villages and towns along his route, stopping in Medford (formerly Mystic) at the home of Isaac Hall, the captain of the Medford Minutemen during the Revolutionary War, before continuing on through Arlington (formerly Menotomy) and arriving in Lexington around midnight;

Whereas William Dawes and a third rider, Dr. Samuel Prescott joined Paul Revere on his mission and they proceeded together on horseback to Lincoln;

Whereas while en route they encountered a British patrol that arrested Paul Revere, but William Dawes and Samuel Prescott managed to escape and continued on to Concord where weapons and supplies were hidden;

Whereas the midnight ride of Paul Revere was brilliantly and forever commemorated by the great American poet Henry Wadsworth Longfellow in his 1861 poem ''Paul Revere's Ride'';

Whereas the actions taken by Paul Revere, William Dawes, and Samuel Prescott afforded the Minutemen time to assemble to confront the advancing British troops and were heralded as one of the first great acts of patriotism of our Nation;

Whereas 38 Lexington Minutemen boldly stood before 600–800 British troops who had gathered at Lexington Green;

Whereas Captain Parker of the Lexington Minutemen commanded his men, ''Don't fire unless you are fired on; but if they want a war, let it begin here.'';

Whereas when the British continued onto Concord, a battle ensued at the Old North Bridge, where Minutemen from every Middlesex village and town routed the British and forced them into retreat back to Boston;

Whereas Ralph Waldo Emerson immortalized this moment in American history as where ''the embattled farmers stood and fired the shot heard 'round the world.'';

Whereas the United States has recognized the historic significance of the Nation's original patriots with the creation in 1959 of the Minute Man National Historical Park, located in Concord, Lincoln, and Lexington, Massachusetts, to preserve and protect the numerous significant historic sites, structures, properties, and landscapes associated

with the opening battles of the American Revolution, and to help visitors understand and interpret the colonial struggle for their rights and freedoms; and

Whereas the heroic acts of April 19, 1775, are celebrated in Massachusetts and Maine every year as part of Patriot's Day with a reenactment of Paul Revere's famous ride, battle reenactments, educational programs, parades, and civic activities, and remembered by Americans across the United States: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) expresses support for the celebration of Patriot's Day;

(2) recognizes the extraordinary dedication to freedom demonstrated by the Nation's first patriots during the earliest days of the Battle for Independence in April 1775; and

(3) honors those first patriots who lost their lives in defense of liberty and freedom.

EMERGENCY WARTIME SUPPLEMENTAL APPROPRIATIONS ACT, 2003

Mr. SUNUNU. Madam President, I ask unanimous consent that when the Senate receives from the House the conference report to accompany H.R. 1559, the emergency war supplemental, and with the concurrence of the two leaders, the conference report be agreed to and the motion to reconsider be laid upon the table.

Mr. REID. Madam President, it is my understanding that even if this is agreed upon, even absent this consent agreement, no rollcall vote on passage of the conference report would have been requested and the report would have been agreed to by voice vote; is that true?

The PRESIDING OFFICER. That is the understanding of the Chair.

Mr. SUNUNU. That is my understanding.

Mr. REID. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

COLLOQUY BETWEEN SENATOR SMITH AND CHAIRMAN STEVENS ON ARMY PROCUREMENT OF THE CHITOSAN HEMORRHAGE CONTROL DRESSING

Mr. SMITH. Madam President, I would like to call my colleagues' attention to a revolutionary development in hemorrhage control which is expected to save lives of American soldiers now lost due to uncontrolled bleeding on the battlefield.

According to military physicians, 90 percent of soldiers killed in war die before they reach a medical facility, most often of blood loss. Wounds to the extremities are considered the main preventable cause of death in military action.

Using Army funds added by Congress over the past few years to spur medical technology to help our soldiers, researchers at the Oregon Medical Laser Center at Providence St. Vincent Medical Center in Portland have developed a hemorrhage control dressing made principally of chitosan and vinegar. Chitosan is an inexpensive material found in the exoskeleton of shrimp.

Last fall the FDA cleared the external use of this dressing. The approval was expedited at the request of the Commander of the Army's Medical Research and Materiel Command, who wrote to the FDA, and I quote:

This dressing will significantly improve the ability of medics to control hemorrhage from extremity wounds. As a result of independent efficacy studies done at the United States Army Institute of Surgical Research, we feel that the Hemcon chitosan bandage is critical in our efforts to the control of severe external hemorrhage in the combat environment.

Subsequent to FDA clearance, this bandage was incorporated into military medical doctrine. According to the newest draft tactical combat care doctrine, ''. . . every combatant should carry both a tourniquet and a hemostatic dressing as part of his personal gear loadout, and should be trained in their use.''

The dressing is now being manufactured by an Oregon company, HemCon, under contract to the Army. I believe the Army should make a major commitment of funds to speed these bandages to our troops. I inquire of the Chairman if there is sufficient flexibility in this bill for the Army to purchase this dressing.

Mr. STEVENS. I thank my colleague for his inquiry and would respond that we have provided billions of dollars to the Army, with knowledge that there are uncertainties remaining in our action in Iraq. Certainly I would encourage the Army to place purchase of these bandages among their highest priorities, given the indications I have seen of the lives to be saved.

Mr. SMITH. I thank my distinguished colleague, who continually shows his dedication to the men and women of our armed forces. Equipping each of our soldiers in Iraq with this bandage would be a very positive step we can take to save lives. Even if, as we all hope, the main military thrust of our forces in Iraq is successfully concluded in the near future, it is likely that threats from isolated but armed Iraqi paramilitary forces will remain in the months ahead. I would encourage the Army to procure these bandages as quickly as possible to meet the military's own goal of providing one to each soldier.

HONORING MICHAEL KELLY

Mr. SUNUNU. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 121, which was submitted earlier today by Senator MCCONNELL.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 121) honoring the life of Washington Post columnist and Atlantic Monthly editor Michael Kelly in expressing deepest condolences of the Senate to his family on his death.

There being no objection, the Senate proceeded to consider the resolution.

Mr. MCCONNELL. Mr. President, Michael Kelly died nearly a week ago while covering the U.S. Army's Third Infantry Division's march to liberate Baghdad. It is difficult for me to believe that he was only 46 years old. Michael Kelly's contributions to American journalism and American politics were not the contributions of a young man but those of a witty, political observer whose love of his country and delight in the pastime of American politics was as boundless as the American dream itself. Michael Kelly, so deeply committed to preserving freedom and liberty, should be in Baghdad right now relishing in the awakening of the Iraqi people to their new lease on life, liberty, and freedom from fear.

I did not fully realize the extent of his contribution to the American political discourse until I opened the Washington Post yesterday and noticed that his Wednesday column was dark. At that moment, I realized how gaping a void Michael Kelly's death has left in the pages of newspapers throughout the country, and in the hearts and minds of his countless readers.

He was in life, and will remain in death, an icon for all who shared his interest and obvious passion for the theatre of American politics. His bemused commentary and good-natured derision from the balcony of our political arena—and his delight in watching political virtuosi and vaudevillians march across the stage—place him in my book among the great political commentators of our time.

Although I did not know Michael Kelly, his writings reminded me of the satisfaction and glory that accompanies fighting for just causes and deeply held beliefs, however unpopular they may be in certain circles. His life and work stand as reminders of why partisanship—even bitter partisanship—can be often an immensely positive contribution to American politics. Like that of my former colleague and friend, the late Daniel Patrick Moynihan, Michael Kelly's style of partisanship made an eloquent and thoughtful contribution to the important debates about the future of our country.

Michael Kelly's style—witty, acerbic, curmudgeonly, and independent—invited obvious comparisons to another famous American journalist: H.L. Mencken. Like Mencken, Kelly relished the opportunity to fire rhetorical grapeshot across the bow of his political adversaries. His refusal to mute his criticism of liberal politicians while he was serving as the editor of the left-leaning New Republic is reminiscent of Mencken's long-running feud with President Roosevelt. There is also a superficial connection, too, as Kelly spent an early part of his career as a reporter for the Baltimore Sun, a newspaper made famous under the stewardship of its iconic reporter and editor.

More substantively, Michael Kelly, like Mencken, was much more than a newspaperman. He was a man of letters, and a powerful political voice.

Kelly's most recent endeavors stand as testament to his immense intellect and lasting impact. His tenure as editor of The Atlantic Monthly has resulted in dramatic success for that venerable magazine. And for whatever informal polling is worth, I can attest that members of my staff routinely compete for copies of The Atlantic when they arrive in my office mailroad each month.

He left the comfort of his editor's desk recently to join the U.S. Army's Third Infantry Division as an embedded journalist. Having doggedly defended the moral and security justifications for disarming Saddam Hussein's brutal regime, Michael Kelly risked his life to bear witness to the liberation of the Iraqi people.

Michael Kelly was an eloquent advocate of the moral arguments for regime change in Iraq. Regarding the liberation of the Iraqi people, Kelly wrote in February:

There are 24 million of them, and they have been living (those who have not been slaughtered or forced into exile) for decades under one of the cruelest and bloodiest tyrannies on earth. It must be assumed that, being human, they would prefer to be rescued from a hell where more than a million lives have been sacrificed to the dreams of a megalomaniac, where rape is a sanctioned instrument of state policy, and where the removal of the tongue is the prescribed punishment for uttering an offense against the Great Leader.

These people could be liberated from this horror—relatively easily and quickly. There is every reason to think that a U.S. invasion would swiftly vanquish the few elite units that can be counted on to defend the detested Saddam Hussein; and that the victory would come at the cost of a few—likely hundreds, not thousands—Iraqi and American lives. There is risk; and if things go terribly wrong it is a risk that could result in terrible suffering. But that is an equation that is present in any just war, and in this case any rational expectation has to consider the probable cost to humanity to be low and the probable benefit to be tremendous. To choose perpetuation of tyranny over rescue from tyranny, where rescue may be achieved, is immoral.

His predictions have proven accurate, and it is a heartbreaking tragedy that he did not survive the march to Baghdad, where he would have witnessed a new birth of freedom in a land strangled for so long by tyranny and oppression.

Michael Kelly is survived by his wife, Madelyn, his young sons Tom and Jack—whose endeavors he recorded lovingly and amusingly in his columns—and his parents, Thomas and Marguerite Kelly. My prayers and deepest condolences go out to them for their loss.

So today I ask my colleagues to join me in paying tribute to Michael Kelly's life and recognizing his lasting contribution to the twin worlds of American journalism and American politics. I hope my colleagues will support this resolution

Mr. SUNUNU. Madam President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to this matter appear in the RECORD as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 121) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 121

Whereas the Senate has learned with sadness of the death of columnist and editor Michael Kelly;

Whereas Michael Kelly, a native of Washington, D.C., greatly distinguished himself as a newspaper reporter, political columnist, writer, and magazine editor;

Whereas Michael Kelly was embedded with the Third Infantry Division of the United States Army in Iraq to record history from the perspective of the soldiers on the field of battle;

Whereas Michael Kelly distinguished himself early in his career as a reporter for the Cincinnati Post, Baltimore Sun, New York Times, and the New Yorker;

Whereas Michael Kelly served as editor of the National Journal and New Republic;

Whereas Michael Kelly was most recently a columnist for the Washington Post and the editor of the Atlantic Monthly, which under his stewardship was awarded three National Magazine Awards last year;

Whereas Michael Kelly's political columns represent a major contribution to American political discourse;

Whereas Michael Kelly's reporting during the Persian Gulf War of 1991 was published as a book entitled ''Martyr's Day'';

Whereas Michael Kelly was a devoted husband to his wife, Madelyn, a proud father to his sons, Tom and Jack, and a dutiful son to his parents, Thomas and Marguerite Kelly; and

Whereas Michael Kelly's wit, acumen, intellect, patriotism, and passion will be forever remembered by his friends, colleagues, and the countless strangers whose lives he touched with his powerful writings: Now, therefore, be it

Resolved, That the Senate—

(1) pays tribute to the outstanding career and memorable writings of Michael Kelly;

(2) expresses its deepest condolences to his family; and

(3) directs the Secretary of the Senate to direct an enrolled copy of this resolution to the family of Michael Kelly.

THE CALENDAR

Mr. SUNUNU. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of the following resolutions en bloc: Calendar No. 73, S.J. Res. 8; Calendar No. 74, S. Res. 108; Calendar No. 75, S. Res. 111.

There being no objection, the Senate proceeded to consider the resolutions en bloc.

Mr. SUNUNU. I ask unanimous consent that the joint resolution be read a third time and passed, the resolutions be agreed to, and that the preambles be agreed to, and that the motions to reconsider be laid on the table en bloc, and that any statements relating to these matters be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S.J. Res. 8) was read the third time and passed.

The resolutions (S. Res. 108 and S. Res. 111) were agreed to.

The preambles were agreed to.

The resolutions, with their preambles, read as follows:

S.J. RES. 8

Whereas, on average, another person is sexually assaulted in the United States every two minutes;

Whereas the Department of Justice reports that 248,000 people in the United States were sexually assaulted in 2001;

Whereas 1 in 6 women and 1 in 33 men have been victims of rape or attempted rape;

Whereas children and young adults are most at risk, as 44 percent of sexual assault victims are under the age of 18, and 80 percent are under the age of 30;

Whereas sexual assault affects women, men, and children of all racial, social, religious, age, ethnic, and economic groups in the United States;

Whereas less than 40 percent of sexual assault victims pursue prosecution by reporting their attack to law enforcement agencies;

Whereas two-thirds of sexual crimes are committed by persons who are not strangers to the victims;

Whereas the rate of sexual assaults has decreased by half in the last decade;

Whereas, because of recent advances in DNA technology, law enforcement agencies have the potential to identify the rapists in tens of thousands of unsolved rape cases;

Whereas aggressive prosecution can incarcerate rapists and therefore prevent them from committing further crimes;

Whereas sexual assault victims suffer emotional scars long after the physical scars have healed; and

Whereas free, confidential help is available to all victims of sexual assault through the National Sexual Assault Hotline, more than 1,000 rape crisis centers across the United States, and other organizations that provide services to assist victims of sexual assault: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) it is the sense of Congress that—

(A) National Sexual Assault Awareness and Prevention Month provides a special opportunity to educate the people of the United States about sexual violence and to encourage both the prevention of sexual assault and the prosecution of its perpetrators;

(B) it is appropriate to salute the more than 20,000,000 victims who have survived sexual assault in the United States and the efforts of victims, volunteers, and professionals who combat sexual assault;

(C) national and community organizations and private sector supporters should be recognized and applauded for their work in promoting awareness about sexual assault, providing information and treatment to its victims, and encouraging the increased prosecution and punishment of its perpetrators; and

(D) police, forensic workers, and prosecutors should be recognized and applauded for their hard work and innovative strategies to increase the percentage of sexual assault cases that result in the prosecution and incarceration of the offenders;

(2) Congress urges national and community organizations, businesses in the private sector, and the media to promote, through National Sexual Assault Awareness and Prevention Month, awareness of sexual violence and strategies to decrease the incidence of sexual assault; and

(3) Congress supports the goals and ideals of National Sexual Assault Awareness and Prevention Month.

S. RES. 108

Whereas throughout American history, cowboy poets have played a large part in framing the landscape of the American West through written and oral poetry;

Whereas the endurance of these tales and poems demonstrates that cowboy poetry is still a living art;

Whereas recognizing the contributions of these poets dates as far back as cowboys themselves; and

Whereas it is necessary to recognize the importance of cowboy poetry for future generations: Now therefore be it

Resolved, That the Senate—

(1) designates that week of April 21 through April 27, 2003, as ''National Cowboy Poetry Week''; and

(2) requests the President to issue a proclamation calling upon the people of the United States to celebrate the week with the appropriate ceremonies, activities, and programs.

S. RES. 111

Whereas many nations throughout the world, and especially within the Western hemisphere, celebrate ''Día de los Niños'' on the 30th of April, in recognition and celebration of their country's future—their children;

Whereas children represent the hopes and dreams of the people of the United States;

Whereas children are the center of American families;

Whereas children should be nurtured and invested in to preserve and enhance economic prosperity, democracy, and the American spirit;

Whereas Hispanics in the United States, the youngest and fastest growing ethnic community in the Nation, continue the tradition of honoring their children on this day, and wish to share this custom with the rest of the Nation;

Whereas 1 in 4 Americans is projected to be of Hispanic descent by the year 2050, and there are, in 2003, approximately 12.3 million Hispanic children in the United States;

Whereas traditional Hispanic family life centers largely on children;

Whereas the primary teachers of family values, morality, and culture are parents and family members, and we rely on children to pass on these family values, morals, and culture to future generations;

Whereas more than 500,000 children drop out of school each year and Hispanic dropout rates are unacceptably high;

Whereas the importance of literacy and education are most often communicated to children through family members;

Whereas families should be encouraged to engage in family and community activities that include extended and elderly family members and encourage children to explore, develop confidence, and pursue their dreams;

Whereas the designation of a day to honor the children of the Nation will help affirm for the people of the United States the significance of family, education, and community;

Whereas the designation of a day of special recognition of children of the United States will provide an opportunity for children to reflect on their future, to articulate their dreams and aspirations, and find comfort and security in the support of their family members and communities;

Whereas the National Latino Children's Institute, serving as a voice for children, has worked with cities throughout the country to declare April 30 as ''Día de los Niños: Celebrating Young Americans''—a day to bring together Latinos and other communities nationwide to celebrate and uplift children; and

Whereas the children of a nation are the responsibility of all its people, and people should be encouraged to celebrate the gifts of children to society—their curiosity, laughter, faith, energy, spirit, hopes, and dreams: Now, therefore, be it

Resolved, That the Senate—

(1) designates April 30, 2003, as ''Día de los Niños: Celebrating Young Americans''; and

(2) requests that the President issue a proclamation calling on the people of the United States to join with all children, families, organizations, communities, churches, cities, and States across the Nation to observe the day with appropriate ceremonies, including—

(A) activities that center around children, and are free or minimal in cost so as to encourage and facilitate the participation of all our people;

(B) activities that are positive, uplifting, and that help children express their hopes and dreams;

(C) activities that provide opportunities for children of all backgrounds to learn about one another's cultures and share ideas;

(D) activities that include all members of the family, and especially extended and elderly family members, so as to promote greater communication among the generations within a family, enabling children to appreciate and benefit from the experiences and wisdom of their elderly family members;

(E) activities that provide opportunities for families within a community to get acquainted; and

(F) activities that provide children with the support they need to develop skills and confidence, and find the inner strength—the will and fire of the human spirit—to make their dreams come true.

S. RES. 111

Mr. HATCH. Mr. President, nations throughout the world, especially within Latin America, celebrate Dia De los Niños on the 30th of April, in recognition and celebration of their country's future—their children. Many American Hispanic families continue the tradition of honoring their children on this day by celebrating Dia De los Niños in their homes.

The designation of a day to honor the children of the Nation will help affirm for the people of the United States the significance of family, education, and community. This special recognition of children will provide us with an opportunity to reflect on our future, articulate our dreams and aspirations, and find comfort and security in the support of our family members and communities. This resolution calls on the American people to join with all children, families, organizations, communities, churches, cities, and States across the Nation to observe the day with appropriate ceremonies and activities.

I thank my colleagues for supporting America's youth by supporting this resolution designating April 30, 2003, Dia De los Niños: Celebrating Young Americans.

RECOGNIZING THE 100TH ANNIVERSARY OF THE FOUNDING OF THE LABORERS' INTERNATIONAL UNION OF NORTH AMERICA

Mr. SUNUNU. I ask unanimous consent the Senate immediately proceed to the consideration of Calendar No. 68, S. Res. 117.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 117) recognizing the 100th anniversary of the founding of the Laborers' International Union of North America, and congratulating members and officers of the Laborers' International Union of North America for the union's many achievements.

There being no objection, the Senate proceeded to consider the resolution.

Mr. SUNUNU. I ask unanimous consent the Hatch amendment to the resolution be agreed to, the motion to reconsider be laid upon the table; that the resolution as amended be agreed to and the motion to reconsider be laid upon the table; that the preamble be agreed to and the motion to reconsider be laid on the table, with no intervening action or debate, and any statements relating to this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 531) was agreed to, as follows:

(Purpose: To honor and commend the contributions of all labor organizations within the United States)

Strike all after the resolving clause and insert the following: ''That the Senate—

''(1) recognizes the founding and establishment of labor organizations, which have made a tremendous contribution to the structural development and building of the United States, and to the well-being of countless workers;

''(2) congratulates labor organizations for their many achievements and the strength of their membership; and

''(3) expects that labor organizations will continue their dedicated work and will have an even greater impact in the 21st century and beyond, and will enhance the standard of living and work environment for laborers and other workers in generations to come.''.

The resolution (S. Res. 117), as amended, was agreed to.

The preamble was agreed to.

The resolution, as amended, with its preamble, reads as follows:

(The bill will be printed in a future edition of the RECORD.)

EXPRESSING THE SENSE OF CONGRESS REGARDING THE BLUE STAR SERVICE BANNER AND THE GOLD STAR

Mr. SUNUNU. Madam President, I ask unanimous consent the Senate proceed to the immediate consideration of S. Con. Res. 36, submitted earlier today by Senators DASCHLE, FRIST, HAGEL, JOHNSON, and STEVENS.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 36) expressing the sense of the Congress regarding the blue star service banner and the gold star.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DASCHLE. Madam President, today I join with my colleague, Senator HAGEL, to urge adoption of a Senate concurrent resolution on behalf of our troops and their families. Specifically, the resolution encourages families of military personnel to display the Blue Star Service Banner, a tradition dating back to World War I. The Blue Star Service Banner indicates that a loved one is serving our country in the active duty military, and honors their devotion and sacrifice.

The Blue Star Service Banner has its origins in World War I, when mothers of soldiers often sewed blue stars onto white flags by hand, in order to express their love, pride, and concern for their sons serving abroad. The practice was widespread throughout the two World Wars, coming to serve not only as a symbol of pride but also as a reminder to our Nation's citizens of their call to support the war effort. The flying flag urged civilians to remember their commitment to ration gas and food, to buy war bonds, or to work in the factories producing much-needed materials, all in support of the brave men who were placing their lives on the line in defense of our country.

Today, as a new generation of brave men and women faces grave personal risk on the front lines of Operation Iraqi Freedom and Operation Enduring Freedom, let us renew this time-honored tradition and again hoist flags in support of our troops. Let the families of these men and women display their love, pride, and concern for their loved ones, who have made such tremendous commitments to our country. And let these flags remind American citizens of the ways we can support our troops' efforts abroad: by expressing our gratitude, by making personal sacrifices through donations or volunteer efforts, and by continuing to demonstrate liberty and democracy to the world through vigorous debate and civic participation in the institutions that make our country great.

Our Nation's active-duty military now consists of more than a million men and women, supported by even more families and households, and I introduce this bill today out of respect and solidarity with them all. In particular, I would like to pay tribute to my colleague from South Dakota, Senator TIM JOHNSON, who is Congress' only ''Blue Star Parent.'' As you might imagine, given our relationship, I am particularly well acquainted with this family and their son, Brooks, a sergeant in the Army's 101st Airborne Division, now engaged in Operation Iraqi Freedom. Thank you, Barbara and TIM JOHNSON, and thank you, Brooks, for your contribution to our nation's security.

As images of the conflict in Iraq fill up our television screens and newspapers, many Americans feel helpless and distant, and we long for a way to support our troops. The Blue Star Service Banner allows military families to demonstrate their support, their pride, and their concern for the young men and women who serve our nation with such dedication. I urge you to support the passage of this important resolution and to join with me in calling upon the military families among your constituents to fly the Blue Star flag high and proudly.

Mr. SUNUNU. I ask unanimous consent the concurrent resolution and preamble be agreed to en bloc, the motions to reconsider be laid on the table en bloc, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 36) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. CON. RES. 36

Whereas the Blue Star Service Banner was patented and designed in 1917, during the height of the First World War, by Army Captain Robert L. Queissner of the 5th Ohio Infantry, who had two sons serving on the front lines;

Whereas the banner quickly became the symbol for a family member serving the Nation and families began proudly displaying these banners in their front windows during the First World War;

Whereas each Blue Star on the banner represents a family member serving in the Armed Services and symbolizes hope and pride;

Whereas beginning in 1918, the Blue Star would signify the living, and a smaller Gold Star would be placed on top of the Blue Star, forming a blue border, if the family member was killed or died while on active duty, to symbolize his or her sacrifice for the cause of freedom;

Whereas the placement of a Gold Star on top of a Blue Star recognizes that those who served together and came home, as well as their families, will always remember the sacrifice of those who died and honor their families;

Whereas the banners were displayed widely during the Second World War;

Whereas many of the banners displayed during the First and Second World Wars were hand-made by the mothers of those serving in the Armed Forces;

Whereas the legacy of the banner continued during the Korean, Vietnam, and Persian Gulf Wars and other periods of conflict, as well as in times of peace;

Whereas the Blue Star Service Banner is the official banner authorized by law to be displayed in honor of a family member serving the United States, while the Gold Star may be displayed in honor of a family member who has made the ultimate sacrifice for the Nation;

Whereas for over 85 years, families have proudly displayed the Blue Star Service Banner showing service men and women the honor and pride that is taken in their sacrifices for freedom;

Whereas the banner may be displayed by members of the immediate family of a loved one serving in the Armed Forces, including active duty service in a unit of the National Guard, Merchant Marine, or the Reserves;

Whereas the banner may be flown by families with a service member stationed either domestically or overseas;

Whereas the display of the banner in the front window of a home shows a family's pride in their loved one and is a reminder that preserving America's freedom demands great sacrifice; and

Whereas this reminder is especially timely during the current conflict with Iraq and the war on terrorism: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) calls on all Americans to honor the men and women of the United States Armed Forces and their families;

(2) honors the men and women of the United States Armed Forces and their families;

(3) encourages these families to proudly display the Blue Star Service Banner or, if their loved one has made the ultimate sacrifice, the Gold Star; and

(4) calls on the media to recognize the importance of the Blue Star Service Banner and its symbolism of the devotion and service of the men and women of the United States Armed Forces.

SEC. 2. The authority on which this resolution rests is the authority of Congress to make all laws which shall be necessary and proper as provided in Article I, section 8 of the United States Constitution.

EXPRESSING THE SENSE OF THE CONGRESS REGARDING THE BLUE STAR FLAG AND THE GOLD STAR

Mr. SUNUNU. Madam President, I ask unanimous consent that the Armed Services Committee be discharged from further consideration of H. Con. Res. 109 and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 109) expressing the sense of the Congress regarding the Blue Star Flag and the Gold Star.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. SUNUNU. Madam President, I ask unanimous consent that the concurrent resolution and preamble be agreed to en bloc, the motions to reconsider be laid upon the table en bloc, and that any statements relating thereto be printed in the RECORD, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 109) was agreed to.

The preamble was agreed to.

BIRCH BAYH FEDERAL BUILDING AND UNITED STATES COURTHOUSE

Mr. SUNUNU. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 65, S. 763.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 763) to designate the Federal building and United States courthouse located at 46 East Ohio Street in Indianapolis, Indiana, as the ''Birch Bayh Federal Building and United States Courthouse.''

There being no objection, the Senate proceeded to consider the bill.

Mr. SUNUNU. Madam President, I ask unanimous consent that the bill be read three times, passed, and the motion to reconsider be laid upon the table; that any statements relating thereto be printed in the RECORD, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 763) was read the third time and passed, as follows:

S. 763

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF BIRCH BAYH FEDERAL BUILDING AND UNITED STATES COURTHOUSE.

The Federal building and United States courthouse located at 46 East Ohio Street in Indianapolis, Indiana, shall be known and designated as the ''Birch Bayh Federal Building and United States Courthouse''.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building and United States courthouse referred to in section 1 shall be deemed to be a reference to the Birch Bayh Federal Building and United States Courthouse.

TED WEISS FEDERAL BUILDING

Mr. SUNUNU. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 66, H.R. 145.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 145) to designate the Federal building located at 290 Broadway in New York, New York, as the ''Ted Weiss Federal Building.''

There being no objection, the Senate proceeded to consider the bill.

Mr. JEFFORDS. Madam President. I rise today to express my overwhelming support for H.R. 145, a bill to designate the Federal Building located at 29 Broadway in New York City as the ''Ted Weiss Federal Building.'' The building currently houses the offices of the U.S. Environmental Protection Agency Region 2, as well as some Internal Revenue Service offices and some Federal Bureau of Investigation offices.

Ted Weiss was born in Gava, Hungary, on September 17, 1927. At the age of 11, to escape persecution by the Nazi regime, Ted Weiss and his family took passage on one of the last passenger ships to leave Hamburg, Germany in 1938. The Weiss family settled in the United States, and in 1946, Ted Weiss graduated from Hoffman High School in South Amboy, NJ. Upon his graduation, Ted Weiss joined the United States Army. After one year in the Army, Ted Weiss enrolled at Syracuse University, where he earned a bachelor's degree in 1951 and a law degree in 1952.

Ted Weiss became a naturalized United States citizen and was admitted to the practice of law in 1953. From 1955 to 1959, Ted Weiss served as an Assistant District Attorney for New York City. He also served on the New York City Council from 1962 to 1977. In 1976, Congressman Weiss was elected to the U.S. House of Representatives to serve in the 95th Congress, and each of the seven succeeding Congresses.

As the ranking member of the Senate Environment and Public Works Committee, I am very pleased to lend my full support for this legislation. Ted Weiss was a valued member of the House of Representatives and a good friend to many. For many years, Ted and I worked together as co-chairs of the Congressional Arts Caucus. Ted was tireless in his support for the arts and recognized the value of making the arts accessible to all Americans. The naming of the Federal Building at 29 Broadway is a fitting tribute to a man who dedicated his life to public service and the betterment of our nation. Ted Weiss was an American hero, and he is dearly missed here in the halls of Congress.

Mr. SUNUNU. Madam President, I ask unanimous consent that the bill be read three times, passed, and the motion to reconsider be laid upon the table; that any statements relating thereto be printed in the RECORD, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 145) was read the third time and passed.

CARL T. CURTIS NATIONAL PARK SERVICE MIDWEST REGIONAL HEADQUARTERS BUILDING

Mr. SUNUNU. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 70, S. 703.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 703) to designate the regional headquarters building for the National Park Service under construction in Omaha, Nebraska, as the ''Carl T. Curtis National Park Service Midwest Regional Headquarters Building.''

There being no objection, the Senate proceeded to consider the bill.

Mr. HAGEL. Madam President, I rise today to pay tribute to the late Nebraska U.S. Senator Carl T. Curtis. Curtis represented Nebraska in Congress for 40 years, longer than any other Nebraskan. He began at an early age. A well-known anecdote depicts Curtis as a young boy near Minden, NE, delivering speeches to the animals on his family's farm, in the absence of more engaging company. Not that he always found it here in Congress.

Curtis's life was always about hard work, common sense, and accomplishment. He began his career by obtaining a law degree by ''reading the law'' on his own and passing the bar. In Nebraska politics, he was known as a giant-killer, defeating two incumbent Governors, one former Governor, one Governor-to-be, and two former House Members. He is the only elected official in Nebraska State history to win statewide office while losing both Omaha and Lincoln. Curtis remained determined and victorious in the Senate when, in 1975, he waged a successful battle against Senator Jacob Javits, R-NY, for the chairmanship of the Senate Republican conference. As the new chairman of the Republican conference, he changed its role to be that of a research body, providing Republican Senators with relevant information on emerging national issues. The function of the current Senate Republican conference began under Curtis's leadership.

During his 16 years in the House and 24 years in the Senate, Curtis served on the Finance, Agriculture, Rules, and Space Committees. He helped establish a blueprint for flood control and irrigation along the Missouri River. He worked tirelessly to enact the energy tax bill and the Tax Reform Act of 1976. Throughout his life, Curtis was an advocate for small business, agriculture producers, and social security reform. He was a selfless public servant who respected and lived traditional American values.

Outside of the Halls of Congress, Curtis actively supported his fellow Republicans. One of his political highlights came when he was asked by the late Arizona U.S. Senator, Barry Goldwater, to serve as his floor manager at the 1964 Republican National Convention in San Francisco. With Curtis's help, Goldwater won the GOP Presidential nomination that year.

After Curtis finished his distinguished tenure in Congress in 1979, he went back to practicing law in Nebraska, while continuing to be an active voice in politics and an adviser to many Republican candidates and officials. He also filled his time writing his book, ''Forty Years Against the Tide,'' which highlighted his opposition to the welfare state. After Curtis retired, he spent many happy days in Nebraska with friends, family and his wife Mildred.

Curtis had a full political career, but the cornerstone of his life was his family and friends. His first wife, Lois Wylie-Atwater, championed him throughout his political career, along with their two adopted children. After Lois's death, Curtis found companionship in Mildred Genier Baker. They married in 1972. Curtis's journey came to an end on January 24, 2000, but his remarkable legacy lives on. Senator Curtis was a friend and political mentor to many of us. We will always appreciate his willingness to help each of us, his courtesies, his friendship and his integrity. Naming the new Park Service building in Omaha after Senator Carl T. Curtis is an appropriate

tribute to a legendary public servant and leader.

Mr. SUNUNU. Madam President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 703) was read the third time and passed, as follows:

S. 703

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF CARL T. CURTIS NATIONAL PARK SERVICE MIDWEST REGIONAL HEADQUARTERS BUILDING.

The regional headquarters building for the National Park Service under construction in Omaha, Nebraska, shall be known and designated as the ''Carl T. Curtis National Park Service Midwest Regional Headquarters Building''.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the regional headquarters building referred to in section 1 shall be deemed to be a reference to the Carl T. Curtis National Park Service Midwest Regional Headquarters Building.

ORDER FOR COMMITTEES TO FILE

Mr. SUNUNU. Madam President, I ask unanimous consent that notwithstanding the recess or adjournment, committees be authorized to report legislative and executive matters on April 24, 2003, from 10 a.m. to 12 noon.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZING APPOINTMENTS

Mr. SUNUNU. Madam President, I ask unanimous consent that notwithstanding any adjournment of the Senate, the President of the Senate, the President of the Senate pro tempore, and the majority and minority leaders be authorized to make appointments to commissions, committees, boards, conferences, or interparliamentary conferences authorized by law, by concurrent action of the two Houses, or by order of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY TO SIGN ENROLLED BILLS OR JOINT RESOLUTIONS

Mr. SUNUNU. Madam President, I ask unanimous consent that during this adjournment of the Senate, the majority leader, the assistant majority leader, or Senator WARNER be authorized to sign duly enrolled bills or joint resolutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROVIDING FOR A CONDITIONAL ADJOURNMENT OF THE SENATE AND THE HOUSE OF REPRESENTATIVES

Mr. SUNUNU. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Con. Res. 38, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 38) providing for a conditional adjournment or recess of the Senate and a conditional adjournment of the House of Representatives.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. SUNUNU. Madam President, I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 38) was agreed to.

The concurrent resolution reads as follows:

S. CON. RES. 38

Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses or adjourns at the close of business on Friday, April 11, 2003, or Saturday, April 12, 2003, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Monday, April 28, 2003, or until such other time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the House adjourns on any legislative day from Saturday, April 12, 2003, through Friday, April 18, 2003, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2:00 p.m. on Tuesday, April 29, 2003, or until Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Majority Leader of the Senate and the Speaker of the House, acting jointly after consultation with the Minority Leader of the Senate and the Minority Leader of the House, shall notify the Members of the Senate and House, respectively, to reassemble at such place and time as they may designate whenever, in their opinion, the public interest shall warrant it.

ORDERS FOR MONDAY, APRIL 28, 2003

Mr. SUNUNU. Madam President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment under the provisions of S. Con. Res. 38, until 12:00 noon, Monday, April 28.

I further ask that following the prayer and the pledge, the morning hour be deemed to have expired, the Journal of the proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and that there then be a period of morning business until 1 p.m., with the time equally divided between the two leaders or their designees; provided that at 1 p.m. the Senate proceed to executive session to consider the nomination of Jeffrey Sutton to be a Circuit Judge for the Sixth Circuit as stipulated under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. SUNUNU. Madam President, for the information of all Senators, when the Senate reconvenes on Monday, April 28, the Senate will be in a period of morning business until 1 p.m.

Following morning business, the Senate will begin consideration of the nomination of Jeffrey Sutton. There will be no rollcall votes on Monday. The next rollcall vote will occur on Tuesday, April 29, at approximately 12 noon.

On behalf of the majority leader, I thank my colleagues for their hard work and cooperation over the past few weeks. We have completed action on the budget resolution, the war supplemental, the CARE act, the PROTECT Act, and a host of other important pieces of legislation, including a number of measures to assist our men and women in the Armed Forces. I wish all my colleagues a safe and restful Easter recess.

ORDER FOR ADJOURNMENT

Mr. SUNUNU. Madam President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the provisions of S. Con. Res. 38 following the remarks of Senator BYRD for up to 30 minutes. I further ask that if the House has not acted upon S. Con. Res. 38, then the Senate reconvene at 12 noon, Monday, April 14.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

A CONSTITUTIONAL EMERGENCY RESPONSE FUND

Mr. BYRD. Madam President, tonight the Senate will consider the supplemental appropriations conference report to begin to fund the war in Iraq. For many hours today, members of the House and Senate Appropriations Committees worked to complete action on the legislation, and I am pleased to report that we are nearing a final package.

Despite the progress today, however, I remain concerned about the path on which this conference report places the Congress.

For decades, Presidential administrations have sought to wrap their fingers around the purse strings, push away the Congress, and ignore the Constitution—this Constitution which I hold in my hand. It does not matter what administration it is. It does not matter the political party of the President. What matters is nothing more than raw power. That executive branch is always out there seeking to expand its power. Twenty-four hours every day, the administration is somewhere on the globe reaching, seeking to grasp more power. When Congress is out on recess, when Congress is at home, when the men and women of the Congress are sleeping, the executive branch is there. At some point on the compass, on the high seas, in the tundra of the far north, in the tropics, it is always, always awake, always there. What matters is nothing more than raw power. Congress has it. The executive branch wants it. And the executive branch will use virtually any excuse to get it.

It was not long ago that I joined with the late Senator from New York, Daniel Moynihan, the Republican Senator from Oregon, Mark Hatfield, the Democratic Senator from Michigan, CARL LEVIN, and two Members of the House of Representatives, Congressman David Skaggs of Colorado and Congressman HENRY WAXMAN of California, to challenge the line-item veto. Every President in the 20th century, save for William H. Taft, sought some form of line-item veto. Foolishly, on March 23, 1995, the United States Senate passed by a vote of 69 to 29 the Line-Item Veto Act, giving the Office of the President—or seeking to give the Office of the President—the power to pick and choose which items in appropriations bills to fund and which to ignore. With the line-item veto, a President had the power to threaten and to intimidate Members of Congress, the people's directly elected representatives. It gave to one man the power to change unilaterally a bill that was the product of the give and take, the debate and compromise between and among 535 men and women who were directly elected by the people to represent them in Congress.

Fortunately, 5 years ago this June, the United States Supreme Court had the wisdom to see the danger of this approach. The Justices on that High Court ruled 6 to 3 to overturn the Line-Item Veto Act. God save the United States. We do not say it in this body, ''God save the King.'' There is no monachist party in the Senate, or there should not be. We say, ''God save the United States.''

So the Justices, as I say, ruled that Congress did not have the authority to delegate away its constitutionally granted power of the purse. We just cannot do it. We might want to foolishly, but Congress cannot do that. It cannot delegate away its constitutional power over the purse. Thank God for the Supreme Court of the United States.

The Court understood precisely what was at stake, even though some here did not. The absolute bedrock of the people's continued freedom from tyranny and excesses of all types of authority is the power of the purse. That is it. Cicero said: There is no fortress so strong that money cannot take it.

James Madison summed up in a very few words the significance of this power in protecting the people's rights and the people's liberties.

In Federalist No. 58, he wrote—now get this:

> This power over the purse, may in fact be regarded as the most compleat and effectual weapon with which any Constitution can arm the immediate representatives of the people for obtaining a redress of every grievance, and for carrying into effect every just and salutary measure.

Let me read that again, from the Federalist No. 58. Madison wrote:

> This power over the purse, may in fact be regarded as the most compleat and effectual weapon with which any Constitution can arm the immediate representatives of the people for obtaining a redress of every grievance, and for carrying into effect every just and salutary measure.

Every Senator should have to sleep with those words of Madison under his pillow at night. Not every Member would need to do that but some would. All too often Senators stand up at that desk and put their hand on the Holy Bible and swear before God and man that they will support and defend the Constitution of the United States against all enemies, foreign and domestic, and they turn right around and seek to give away the power over the purse which constitutionally vests in this branch—seek to give it away to a President.

Why, the President is just a hired hand. He will be around here for a little while and then he will have to go away, have to go back home. The same for Senators; we are hired hands. We will not be here forever. We have to have a new contract every 6 years to stay and continue to serve.

It is this essential tool, the power of the purse, control of the purse by the people's representatives in Congress, and that tool lies at the very foundation of our Nation's liberties, our Nation's freedoms. Take away Congress's power over the purse and the people's liberties cannot be assured. It is that fundamental.

The power over the purse, it is the fulcrum of the people's leverage. It is that power over the purse that caused Englishmen centuries ago to shed their blood, to wrest from tyrannical monarchs that power over the purse and place that power in the hands of the representatives of the people, in the House of Commons in England.

Too many of us forget our roots. Too often we forget our roots. The roots of the Constitution go back not just to 1787 but a thousand years to the Magna Carta in 1215 and beyond.

As enshrined in the Constitution, the power over the purse is one of the chief protectors of all of our cherished freedoms: The freedom of the press, the freedom to assemble, freedom of religion, all of these are freedoms. And that power over the purse vested in this body and the other body of the Congress is a precious power.

This control of the purse is one of the most effective bulwarks ever constructed to repel a despot, control a tyrant, shackle the hands of an overreaching chief executive. Chip away at this fundamental barrier and one chips away at the very cornerstone of the people's liberties. Incredibly, Members of Congress in this day seem to be intent all too much on doing just exactly that, steadily chipping away at the power of the purse and at the other constitutional powers and prerogatives of the people's representatives in Congress.

Since that June day nearly 5 years ago when the High Court struck down the Line Item Veto Act, administrations have sought ways around the High Court ruling. So I say that executive branch is always there, always reaching, always probing, always seeking to get around that constitutional power of the purse. They have sought to chip away at this Constitution. They have sought to control the crucial power of appropriating. That concerted executive branch effort has continued right to this hour in this supplemental request.

I am always amazed, seemingly more so than ever in recent times, that the judicial branch will always stand for the judicial branch. It will always act to protect itself. The executive branch will always act to protect itself and it seeks, as I say, for more and more power. But it is the legislative branch—the branch that is closest to the people, the branch that is first mentioned in the Constitution, the first article of the Constitution, the very first sentence of the Constitution—that more and more so in recent years is willing to give away its prerogatives, to yield to the executive branch.

Ours is a government of three equal branches. We have no king in this country. Our forebears fought a war to break away from the king, King George, III. Those signers of the Declaration of Independence put in jeopardy their lives, their fortunes, their sacred honor, to be independent of the king. They could have been arrested, hauled away, put on ships, sent across the Atlantic to England and hanged for what they did in signing that Declaration of Independence. They put their lives on the line when they did that.

I have to wonder, when Members of the legislative branch will be so obsequious to a President. We see it when we have a Democratic President, many Members on my side of the aisle will be obsequious. They are willing to hand over to that President the line item veto. I see it when a Republican President is in the White House so many on

that side of the aisle are so obsequious to the President, as though he brought them here, as though they were elected by a President.

The President is a hired hand, just as I am. Why should we be so obsequious to a President? He is no king. Our forefathers fought a war, as I say. Nathan Hale gave his life for his country.

I often talk to these pages. I get a new lease on life just talking with these young people and breathing the fresh air of their vigor, their vision, and their enthusiasm. I say to them: Who is Nathan Hale? I tell them the story of Nathan Hale, if they have not heard it. We do not have history books today like we had when I went to school. I studied Muzzy. It was not a book filled with pictures. There were very few pictures, but it was crammed with text. And there for Muzzy did I get my hero from the patriots of the Revolutionary period, from those who wrote the Constitution, who wrote the Bill of Rights, who wrote the Declaration of Independence, Benjamin Franklin, James Madison, and Nathan Hale.

Nathan Hale answered the call of George Washington to go behind the enemy lines and bring back drawings of the British gun emplacements. And on the night before he was to return to the American lines, Nathan Hale was arrested as a spy. The next morning, he stood before a crude gallows, a wood coffin within sight, knowing that his body would soon lie and grow cold in that wood coffin. He was asked by the British commander, a Commander Cunningham, if he had anything to say. There with his hands clasped behind him, he said:

I only regret that I have but one life to lose for my country.

What a lesson we can all draw from that man who gave his only life. Did he die to give a President the power of the purse? We did not have a constitution at that point. But I cannot believe that he would have died to give a President the power of the purse. He died because he was fighting for independence, to make this Nation a separate nation from that nation which was ruled by a king.

Just a few weeks ago, after months of stiff-arming Congress's request for information regarding the cost of military action in Iraq, the President finally provided the details of the first installment payment totaling $74.7 billion. Of that amount for the Department of Defense, the President sought $62 billion. But the President wanted the Secretary of Defense to pick and choose how to spend more than $59.8 billion of that money. Congress was asked to provide this funding in an account labeled the Defense Emergency Response Fund. Around here, this fund is nicknamed DERF. I can think of another explanation for DERF: The Dangerous Erosion of the Right to Fund. No, it was not flexibility that the President sought; it was control; it was power.

The President's supplemental sought another $1.4 billion for the Department of Defense to allow the Secretary of Defense to allocate funds to pay nations that have provided support for the global role on terrorism. And again, the Secretary of Defense would decide where, how, when to invest those dollars—not the Congress. Nowhere in the Constitution is the Secretary of Defense given the power of the purse. Nowhere is the Secretary of Defense even mentioned—because there was not any Secretary of Defense when that Constitution was written.

Again, however, it was not flexibility that the President sought; it was power. Time after time in line after line, this administration sought unprecedented authority to spend the people's money—your money—you, the people out there looking at this Chamber through those electronic eyes; your money. How it wanted, where it wanted, when it wanted, why it wanted.

The cry went out: Give us flexibility. That was the cry of the administration when it sent up this supplemental appropriations bill. Give us flexibility. But it was not really flexibility that the administration wanted; it was power—power, power over the purse, power over the Congress.

Wisely, the House and Senate Appropriations Committees limited this power grab in this supplemental request. Despite the best efforts of the administration, the conference report holds to almost all of the committee's limitations and presentations. But it took a vote of the conference this morning to give protection to the prerogatives of this Congress.

With that vote—and the prerogatives of the Congress, I say, are the prerogatives of the people; that is what we are really talking about, the people—with that vote, the House and Senate conferees approved a 5-day notification on how the Secretary of Defense and the President may choose to spend $15 billion in the Defense Emergency Response Fund. Five days' notification is not too great a burden for the administration to meet, and you would not have thought the administration would have resisted that with every ounce of its strength.

I read in the newspaper something to the effect that the President was on the floor, the Vice President visited offices around this Hill, and the Secretary of Defense was on the phone urging Members to stand by the administration. The administration resisted this bipartisan effort to require this short notification, but the conferees acted to protect the people against a would-be power grab by the administration. If there is an imminent danger facing the Nation today, the Commander in Chief does not need to wait to respond. He will not have to say that he cannot stop an attack against America simply because he has to tell Congress first. He has the inherent constitutional right to counter any imminent direct threat facing the United States. A 5-day notification requirement on the DERF does not tie the President's hands at all, but it does help to protect the people's liberties against an overreaching executive.

Despite the good work by the conferees to limit the so-called flexibility, I fear that this conference report is nothing more than a first step down a slow road to oblivion for Congress. Because of this President's insatiable desire—and especially this administration, I say, after having watched for 50 years one administration after another, Republican and Democrat—because of this administration's insatiable desire to control the power of the purse, what we are witnessing in this DERF is a unique and creative strategy to circumvent the people's directly elected representatives.

What will be next? Which department will seek its own emergency response fund with no strings, no questions, no examination? Why not just hand each department in this administration a huge check at the start of each fiscal year and say: Here you go, boys. Have a good time. Send us a postcard.

Put a sign on the Capitol dome: Going out of business.

I hope this will be the last time Congress feels the need to accommodate an emergency response fund that contains so few strings, so few protections for the people. After all, it is their money. I have heard that many times, ''It's their money.'' Well, now I say it, yes, it is their money.

Since this war began I have stated my strong support for the men and women engaged in military action and for their families. I have pledged every resource necessary to speed their victory and their safe return home. I will keep that pledge and vote for this conference report.

But I have also sworn an oath to protect and defend this Constitution. I will not stand by quietly while we demolish this document that has served us well for more than 200 years as the foundation of this Republic.

The bill that we are talking about is only the downpayment on this war. Remember that—only the downpayment on this war. We have asked the administration time and again, and the administration's representatives who came to the Hill: What will be the cost? What will be the cost?

Secretary Rumsfeld said the cost is not knowable. So in the President's budget that he sent to the Hill there was not one thin dime for the war.

This bill is only the downpayment on this war and on the occupation and reconstruction of Iraq. This conference report is only a fraction of the cost. As this body writes the checks for the rest of the war and the reconstruction, the Senate should defend vigorously the power of the purse and ensure that the system of checks and balances is preserved.

Madam President, I personally want to thank the Senator who presides over the Senate at this late hour, the hour of 9 o'clock p.m. lacking 1 minute. Here she presides, the junior Senator from

Alaska, LISA MURKOWSKI. I apologize to her for keeping her waiting. I apologize to all the staff, the floor staff, Republicans and Democrats, tonight. And I certainly want to express every good wish for them, to wish them happiness and safety—safety in a dangerous world and at a dangerous time.

I hope that we will all keep in mind the true meaning of Easter as we depart for the holidays. Let us depart, as we shall, hoping that we have served our country to the best of our ability, knowing as we do that even that is not good enough for this country, this land.

I would like to depart this evening in the spirit of the poet Henry Van Dyke, who wrote that marvelous poem ''America For Me.''

'Tis fine to see the Old World, and travel up and down

Among the famous palaces and cities of renown,

To admire the crumbly castles and the statues of the kings,

But now I think I've had enough of antiquated things.

So it's home again, and home again, America for me!

My heart is turning home again, and there I long to be

In the land of youth and freedom beyond the ocean bars,

Where the air is full of sunlight and the flag is full of stars.

Oh, London is a man's town, there's power in the air;

And Paris is a woman's town, with flowers in her hair;

And it's sweet to dream in Venice, and it's great to study Rome,

But when it comes to living, there is no place like home.

I like the German fir-woods, in green battalions drilled;

I like the gardens of Versailles with flashing fountains filled;

But, oh, to take your hand, my dear, and ramble for a day

In the friendly West Virginia woodland where Nature has her way.

I know that Europe's wonderful, yet something seems to lack!

The Past is too much with her, and the people looking back.

But the glory of the Present is to make the Future free,

We love our land for what she is and what she is to be.

Oh, it's home again, and home again, America for me!

I want a ship that's westward bound to plough the rolling sea,

To the blessed Land of Room beyond the ocean bars,

Where the air is full of sunlight and the flag is full of stars.

Madam President, I thank you and I thank all Senators.

I yield the floor.

ADJOURNMENT UNTIL MONDAY, APRIL 28, 2003

The PRESIDING OFFICER. The Senate stands adjourned.

Thereupon, the Senate, at 9:03 p.m. adjourned until Monday, April 28, 2003, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate April 11, 2003:

THE JUDICIARY

CARLOS T. BEA, OF CALIFORNIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT, VICE CHARLES E. WIGGINS, RETIRED.

JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION

JAY PHILLIP GREENE, OF FLORIDA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION FOR A TERM EXPIRING NOVEMBER 17, 2005, VICE LOUISE L. STEVENSON, TERM EXPIRED.

DAVID WESLEY FLEMING, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION FOR A TERM EXPIRING MAY 29, 2007, VICE ALAN G. LOWY, TERM EXPIRED.

JOHN RICHARD PETROCIK, OF MISSOURI, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION FOR A TERM EXPIRING SEPTEMBER 27, 2008, VICE ELIZABETH GRIFFITH, TERM EXPIRED.

IN THE AIR FORCE

THE FOLLOWING OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COL. DANNY K. GARDNER, 0000

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. KIRKLAND H. DONALD, 0000

CONFIRMATIONS

Executive nominations confirmed by the Senate April 11, 2003:

VETERANS AFFAIRS

JOHN W. NICHOLSON, OF VIRGINIA, TO BE UNDER SECRETARY OF VETERANS AFFAIRS FOR MEMORIAL AFFAIRS.

DEPARTMENT OF STATE

JOSEPH LEBARON, OF OREGON, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE ISLAMIC REPUBLIC OF MAURITANIA.

RENO L. HARNISH, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF AZERBAIJAN.

HEATHER M. HODGES, OF OHIO, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF MOLDOVA.

GREGORY W. ENGLE, OF COLORADO, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE TOGOLESE REPUBLIC.

ERIC S. EDELMAN, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF TURKEY.

WAYNE E. NEILL, OF NEVADA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF BENIN.

STEPHEN D. MULL, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF LITHUANIA.

RALPH FRANK, OF WASHINGTON, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF CROATIA.

WILLIAM M. BELLAMY, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF KENYA.

HELEN R. MEAGHER LA LIME, OF FLORIDA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF MOZAMBIQUE.

PAMELA J. H. SLUTZ, OF TEXAS, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO MONGOLIA.

STEPHEN M. YOUNG, OF NEW HAMPSHIRE, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KYRGYZ REPUBLIC.

UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY

JAY T. SNYDER, OF NEW YORK, TO BE A MEMBER OF THE UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY.

HAROLD C. PACHIOS, OF MAINE, TO BE A MEMBER OF THE UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY.

ELIZABETH F. BAGLEY, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY.

MARIE SOPHIA AGUIRRE, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY.

MARIE SOPHIA AGUIRRE, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY.

BARBARA MCCONNELL BARRETT, OF ARIZONA, TO BE A MEMBER OF THE UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY.

BARBARA MCCONNELL BARRETT, OF ARIZONA, TO BE A MEMBER OF THE UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY.

CHARLES WILLIAM EVERS III, OF FLORIDA, TO BE A MEMBER OF THE UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY.

CHARLES WILLIAM EVERS III, OF FLORIDA, TO BE A MEMBER OF THE UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

LEGAL SERVICES CORPORATION

FLORENTINO SUBIA, OF TEXAS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE LEGAL SERVICES CORPORATION.

FRANK B. STRICKLAND, OF GEORGIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE LEGAL SERVICES CORPORATION.

MICHAEL MCKAY, OF WASHINGTON, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE LEGAL SERVICES CORPORATION.

ROBERT J. DIETER, OF COLORADO, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE LEGAL SERVICES CORPORATION.

HERBERT S. GARTEN, OF MARYLAND, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE LEGAL SERVICES CORPORATION.

THOMAS R. MEITES, OF ILLINOIS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE LEGAL SERVICES CORPORATION.

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS THE CHIEF OF THE NATIONAL GUARD BUREAU, AND FOR APPOINTMENT TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 10502:

To be lieutenant general

MAJ. GEN. H. STEVEN BLUM